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Missouri. Laws, statutes, etc. Public utilities law

# MISSOURI
# PUBLIC SERVICE COMMISSION
# LAW

(Laws 1913, pp. 556-651, as amended by Laws 1917, pp. 432-441)

ANNOTATED: Missouri Public Service Commission Reports (Mo. P. S. C.) Vols. 1-4; Public Utility Reports—Annotated (P. U. R. 1915—), Vols. P. U. R. 1915 A-P. U. R. 1917 D; Missouri Supreme Court Reports (Mo.), Vols. 253-270; Southwestern Reporter (S. W.), Vols. 161-196; Federal Reports (Fed.), Vols. 210-242; Conference Rulings (C. R.), Nos. 1-16; General Orders (G. O.), Nos. 1-22.


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# EDITOR'S NOTE.

The effort has been made to place in the form of annotations, of sufficient clearness to serve as a digest, a full, complete and at the same time concise statement of the points ruled upon in formal adjudications affecting the Public Service Commission law of this State. The mere cumulation of lists of cases stating fundamental and axiomatic principles are shown only where the application of such principles to the facts have been made. The general rule, its limitations, exceptions, qualifications and extensions, wherever possible, are set forth that their applications to the various facts may appear.

With regard to ready reference, the law, taking up as it does the different classes of public service utilities under separate articles, does not lend itself to the statement of all like principles under any one given section, and for this reason sections treating of closely related matters and similar sections, applying to the different classes of public service utilities, under the different articles have been noted. Therefore, for any exhaustive search of a point, the sections thus noted, especially sections designated as similar, should be consulted on account of the close relation and the application in general of like principles to the various classes of public service utilities.

For brevity, the volume, the report, and the page only, are cited in connection with the note. At the close of the work is to be found a table of cases, arranged according to reports, volumes and pages, from which the case title of any decision shown may be readily obtained.

W. H. BOHLING.

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# PUBLIC SERVICE COMMISSION LAW.

(Laws 1913, pp. 556-651, as amended by Laws, 1917, pp. 432-441).

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Article I—Public service commission; general provisions (§§ 1-25).
II—Provisions relating to railroads, street railroads and common carriers (§§ 26-42).
III—Provisions relating to the powers of the commission in respect to common carriers, railroads and street railroads (§§ 43-66).
IV—Provisions relating to gas corporations, electrical corporations and water corporations; regulation of price of gas, electricity and water (§§ 67-85).
V—Provisions relating to telegraph and telephone lines and to telephone and telegraph corporations (§§ 86-105); heating companies (§ 105a).
VI—Procedure before commission and courts (§§ 106-115).
VII—Additional powers of the commission; saving clause, and statutes in conflict repealed (§§ 116-140).


## ARTICLE I.

### PUBLIC SERVICE COMMISSION: GENERAL PROVISIONS.


Section 1. Short title.
2. Definitions.
3. Commission established.
4. Commissioners, appointment; qualifications; terms of office.
5. Commissioners, removal of.
6. Counsel to the commission.
7. Counsel to commission; duties.
8. Secretary to the commission; duties.
9. Additional officers and employees.
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11. Office of commission; meetings; official seal; stationery, et cetera.
12. Organization of commission; quorum; powers of a commissioner.
13. Chairman.
14. Salaries and expenses.
15. Salaries and expenses; how paid.
16. Jurisdiction of commission.
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18. Reports of commission.
19. Decisions to be published.
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21. Fees to be charged and collected by the commission.
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25. Service and effect of orders.




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**Section 1. Short title.**—This act shall be known as the "public service commission act," and shall apply to the public services herein described and the commission herein created, and to the public service corporations, persons and public utilities mentioned and referred to in this act. (Laws 1913, p. 557.)

This law, based upon the state's police power (254 Mo. 515, 163 S. W. 854), provides an elaborate system, intended to cover the entire field (259 Mo. 704, 168 S. W. 1156), for the regulation of public utilities and should be liberally construed to further its life, but with caution to decide only necessary questions raised (254 Mo. 515, 163 S. W. 854; 259 Mo. 704, 168 S. W. 1156). A public service corporation is an entity separate and distinct from its members or stockholders (2 Mo. P. S. C. 531).

**Sec. 2. Definitions.**—1. The term "commission," when used in this act, means the public service commission hereby created. (Laws 1913, p. 557.)

2. The term "commissioner," when used in this act, means one of the members of the commission. (Laws 1913, p. 557.)

3. The term "corporation," when used in this act, includes a corporation, company, association and joint stock association or company. (Laws 1913, p. 557.)

4. The term "person," when used in this act, includes an individual, and a firm or copartnership. (Laws 1913, p. 557.)

5. The term "street railroad," when used in this act, includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place in any city, village or town, and including all equipment, switches, spurs, tracks, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind, together with all real estate, used, operated, controlled or owned by or in connection with any such street railroad; but the said term "street railroad," when used in this act, shall not include a railroad constituting or used as part of a trunk line railroad system. (Laws 1913, p. 557.)

6. The term "railroad," when used in this act, includes every railroad and railway, other than a street railroad, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real estate and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad. (Laws 1913, p. 557.)

Railroads three miles or over in length are operated for public use (1 Mo. P. S. C. 416).

7. The term "street railroad corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing any street railroad or any cars or other equipment used thereon or in connection therewith. (Laws 1913, p. 558.)

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8. The term "railroad corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing any railroad or railway or any cars or other equipment used thereon or in connection therewith. (Laws 1913, p. 558.)

Receivers of railroad corporations appointed by Federal courts (1 Mo. P. S. C. 334; 4 Mo. P. S. C. 296, P. U. R. 1917 B, 425) and foreign refrigerator transit companies doing business in the state (1 Mo. P. S. C. 29) are within the term "railroad corporation."

9. The term "common carrier," when used in this act, includes all railroad corporations, street railroad corporations, express companies, car companies, sleeping car companies, freight companies, freight-line companies, steamboat, power boat, vessel-boat and ferry companies, and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, holding, operating, controlling, or managing any such agency for public use in the conveyance of persons, or property within this state. (Laws 1913, p. 558.)

Railroads three miles or over in length (1 Mo. P. S. C. 416) and foreign refrigerator transit companies doing business in the state (1 Mo. P. S. C. 29) are within the term "common carriers." Test of whether a carrier is public or private is the real possibility of use by all within the sphere of service (1 Mo. P. S. C. 416).

10. The term "gas plant," when used in this act, includes all real estate, fixtures and personal property owned, operated, controlled, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas (natural or manufactured) for light, heat or power. (Laws 1913, p. 558.)

11. The term "gas corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any gas plant operating for public use under privilege, license or franchise now or hereafter granted by the state or any political sub-division, county, or municipality thereof. (Laws 1913, p. 558.)

12. The term "electric plant," when used in this act, includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power. (Laws 1913, p. 558.)

13. The term "electrical corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad corporation generating electricity solely for

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railroad or street railroad purposes or for the use of its tenants and not for sale to others) owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others. (Laws 1913, p. 559.)

What constitutes an electric utility (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144).

14. The term "transportation of property," when used in this act, includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported. (Laws 1913, p. 559.)

A grain elevator falls within this subdivision (3 Mo. P. S. C. 529), as does a foreign refrigerator transit company doing business within the state (1 Mo. P. S. C. 29).

15. The term "line," when used in this act, includes "route." (Laws 1913, p. 559.)

16. The term "municipality," when used in this act, includes a city, village or town. (Laws 1913, p. 559.)

17. The term "telephone corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire. (Laws 1913, p. 559.)

What does not constitute service "for hire" (4 Mo. P. S. C. 677, P. U. R. 1917 C, 881; 2 Mo. P. S. C. 103; 2 Mo. P. S. C. 107; 2 Mo. P. S. C. 116). A different charge to nonmembers than to members by a mutual telephone utility constitutes service "for hire" (2 Mo. P. S. C. 116), but participation in toll service, without charging therefor, does not (Ibid.; 2 Mo. P. S. C. 103; 2 Mo. P. S. C. 107; 2 Mo. P. S. C. 116). Questionable whether a mutual telephone company operates a telephone exchange within the meaning of Laws 1911, p. 154, requiring installation of 'phone service in railway stations (3 Mo. P. S. C. 549). Persons operating telephone lines (2 Mo. P. S. C. 84; 2 Mo. P. S. C. 112) and mutual telephone utilities furnishing toll service for hire (1 Mo. P. S. C. 409; 3 Mo. P. S. C. 559, P. U. R. 1916 E, 296) are within this subsection.

18. The term "telephone line," when used in this act, includes conduits, ducts, poles; wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telephone corporation to facilitate the business of affording telephonic communication. (Laws 1913, p. 559.)

19. The term "telegraph corporation," when used in this act, includes any corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph. (Laws 1913, p. 559.)

20. The term "telegraph line," when used in this act, includes conduits, ducts, poles, wires, cables, cross-arms, instruments, machines, appliances and all devices, real estate, easements, apparatus,

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property and routes used, operated, controlled or owned by any telegraph corporation to facilitate the business of affording communication by telegraph. (Laws 1913, p. 559.)

21. The term "water corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water. (Laws 1913, p. 559.)

An individual owning a water utility is within the subsection (1 Mo. P. S. C. 61).

22. The term "water system," when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use. (Laws 1913, p. 560.)

23. The term "express corporation," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier within this state. (Laws 1913, p. 560.)

24. The term "transportation of persons," when used in this act, includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt, carriage and delivery of such person and his baggage. (Laws 1913, p. 560.)

25. The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation and heat or refrigerating corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act. (Laws 1913, p. 560.)

26. The term "service," when used in this act, is used in its broadest and most inclusive sense and includes not only the use and accommodation afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or public utility and the plant, equipment, apparatus, appliances, property and facilities employed by any corporation, person or public utility in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or public utility, and to the use and accommodation of consumers or patrons. (Laws 1913, p. 560.)

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27. The term "rate," when used in this act, shall mean and include every individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any schedule or tariff thereof. (Laws 1913, p. 560.)

28. The term "heating company," when used in this act, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing and distributing and selling, for distribution, or distributing hot or cold water, steam, or currents of hot or cold air for motive power, heating, cooking, or for any public use or service, in any city, town or village in this state. (Laws 1913, p. 560.)

**Sec. 3. Commission established.**—A public service commission is hereby created and established, which said public service commission shall be vested with and possessed of the powers and duties in this act specified, and also all powers necessary or proper to enable it to carry out fully and effectually all the purposes of this act. (Laws 1913, p. 561.)

For matters relating to:
Jurisdiction, see Sec. 16.

**Sec. 4. Commissioners, appointment; qualifications; terms of office.**—The commission shall consist of five members who shall be appointed by the governor, with the advice and consent of the senate, and one of whom shall be designated by the governor to be and, upon being so designated, shall be chairman of said commission. Each commissioner, at the time of his appointment and qualification, shall be a resident of the state of Missouri, and shall have resided in said state for a period of at least five years next preceding his appointment and qualification, and he shall also be a qualified voter therein and not less than twenty-five years of age. One of said commissioners shall hold office for two years from the beginning of his term of office and until his successor shall qualify; two of said commissioners shall hold office for a term of four years from the beginning of their terms of office and until their successors shall qualify, and two of said commissioners shall hold office for a term of six years from the beginning of their terms of office and until their successors shall qualify. The term of office of each commissioner shall begin on the date of the taking effect of this act, and the appointment of each of said commissioners shall be made and announced by the governor immediately after the taking effect of this act. The governor at the time of making and announcing the appointment of said commissioners, as well as in the commission issued by him to each of them, shall designate which of said commissioners shall serve

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for the term of two years, and which shall serve for the term of four years, and which shall serve for the term of six years, as aforesaid, and also which shall be the chairman of the commission. Upon the expiration of each of said terms, the term of office of each commissioner thereafter appointed shall be six years from the time of his appointment and qualification and until his successor shall qualify. Vacancies in said commission shall be filled by the governor for the unexpired term. (Laws 1913, p. 561.)

For matters relating to:
Eligibility, see Sec. 10.

**Sec. 5. Commissioners, removal of.**—The governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel, in his own defense, upon not less than ten days' notice. If such commissioner shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner, and his findings thereon, together with a complete record of the proceedings. The legislature also shall have the power, by a two-thirds vote of all members elected to each house, after ten days' notice in writing of the charges and a public hearing, to remove any one or more of said commissioners from office for dereliction of duty, or corruption, or incompetency. (Laws 1916, p. 561.)

For matters relating to:
Certain acts prohibited, see Sec. 17.

**Sec. 6. Counsel to the commission.**—The governor shall appoint an attorney-at-law, who shall possess the same qualifications as judges of the supreme court of this state, to be and act as the general counsel to said public service commission. The term of office of said general counsel shall be six years from the beginning of his term of office. His term of office shall begin on the date of the taking effect of this act, and his appointment shall be made and announced by the governor immediately after the taking effect of this act. The governor may remove said general counsel for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being publicly heard in his own defense, upon not less than ten days' notice. The governor may, if at any time he deems it necessary, authorize and empower the general counsel to employ assistants to said general counsel for the performance of such extraordinary legal services for or in behalf of the public service commission at such special compensation for such additional assistants as the general counsel, with the approval of the governor, may ascertain and prescribe. (Laws 1913, p. 562.)

For matters relating to:
Eligitability, see Sec. 10.
Certain acts prohibited, see Sec. 17.

**Sec. 7. Counsel to commission; duties.**—It shall be the duty of the general counsel for the commission to represent and appear

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for the commission in all actions and proceedings involving any question under this or any other act, or under or in reference to any act, order, decision or proceeding of the commission, and if directed to do so by the commission, to intervene, if possible, in any action or proceeding in which any such question is involved; to commence and prosecute in the name of the state all actions and proceedings authorized by law and directed or authorized by the commission, and to expedite, in every way possible, to final determination all such actions and proceedings; to advise the commission, and each commissioner, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof, and generally to perform all duties and services as attorney and counsel to the commission which the commission may reasonably require of him. (Laws 1913, p. 562.)

For matters relating to:
Summary proceedings against common carriers, see Sec. 64.
Summary proceedings against electric, gas and water utilities, see Sec. 84.
Summary proceedings against telephone and telegraph utilities, see Sec. 105.
Actions to recover penalties, see Sec. 106.

**Sec. 8. Secretary to the commission; duties.**—The commission may appoint a secretary who shall serve during the pleasure of the commission. It shall be the duty of the secretary to keep a full and true record of all the proceedings of the commission, of all books, maps, documents and papers ordered filed by the commission, and of all orders made by each of the commissioners, and of all orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to it for the safe custody and preservation of all such documents at its office. Under the direction of the commission the secretary shall have general charge of its office, superintend its clerical business and perform such other duties as the commission may prescribe. He shall have power and authority to administer oaths in all parts of the state, so far as the exercise of such authority is properly incidental to the performance of his duties or that of the commission. The secretary shall designate from time to time one of the clerks appointed by the commission to perform the duties of secretary during his absence, and during such time the clerk so designated shall, at the office, possess the powers of the secretary of the commission. (Laws 1913, p. 562.)

For matters relating to:
Eligibility, see Sec. 10.
Certain acts prohibited, see Secs. 17.

**Sec. 9. Additional officers and employees.**—The commission shall have power to employ, during its pleasure, such clerks, stenographers, rate experts, agents, special agents, examiners, engineers, accountants, auditors, inspectors, experts and other employees as it may deem to be necessary to carry out the provisions of this and other acts, or to perform the duties and exercise

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the powers conferred by law upon the commission. (Laws 1913, p. 563.)

For matters relating to:
Eligibility, see Sec. 10.
Certain acts prohibited, see Sec. 17.

**Sec. 10. Oath of office; eligibility of commissioner and officers.**—Each commissioner and each person appointed to office or employment by the governor or by the commission shall, before entering upon the duties of his office or employment, take and subscribe to an oath or affirmation to support the Constitution of the United States and of this state, and to faithfully and honestly discharge the duties of such office. No person shall be eligible to appointment or shall hold the office of commissioner, or be appointed by the commission, or hold any office or position under the commission, who holds any official relation to any common carrier, railroad corporation, street railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, heat and refrigerating corporation, transportation of freight or property company, or other public service or public utility corporation or person subject to any of the provisions of this act, or who owns stocks or bonds therein, or who has any pecuniary interest therein. (Laws 1913, p. 563.)

For matters relating to:
Quallifications of commissioners, see Sec. 4.
Qualifications of counsel, see Sec. 6.

**Sec. 11. Office of commission; meetings; official seal; stationery, et cetera.**—1. The principal office of the commission shall be at the state capitol at the city of Jefferson City, where the commissioners shall reside during their respective terms of office. Said office shall be provided and assigned by the commission of permanent seat of government. The commission shall at all times, except Sundays and legal holidays, be open and in session for the transaction of business and the commissioners shall devote their entire time to the duties of their office. The commission shall have an official seal bearing the following inscription: "Public service commission of the state of Missouri." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal. The commission may sue and be sued in its official name. The offices of said commission shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections, and all other necessary appliances and incidentals, to be paid for in the same manner as other expenses authorized by this act. (Laws 1913, p. 563.)

Individual Commissioners are entitled to receive from the Secretary of State one copy of the revised statutes (256 Mo. 669, 165 S. W. 703) and session laws (Ibid.), but the Secretary of State is not required to furnish the stationery, etc., for the Commission (Ibid.).

2. The offices of said commission shall be open during business hours on all days except Sundays and legal holidays, and one or more responsible persons, designated by the commission

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or by the secretary, under the direction of the commission, shall be on duty at all times, in immediate charge thereof. (Laws 1913, p. 564.)

**Sec. 12. Organization of commission; quorum; powers of a commissioner.**—The commission shall promptly and duly organize. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission, and may hold meetings of the commission at any time or place within the state. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner. All investigations, inquiries, hearings and decisions of a commissioner shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission, and every order and decision made by a commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the order of the commission. (Laws 1913, p. 564.)

For matters relating to:
Effect of vacancies, see Sec. 13.
Exercise of Commission's powers by others, see Sec. 119.

Individual Commissioners may hold sessions (256 Mo. 669, 165 S. W. 703).

**Sec. 13. Chairman.**—The chairman of the commission shall designate from time to time, by order entered of record, some member of the commission to act as chairman during the absence or sickness of such chairman appointed by the governor, and during such time the commissioner so appointed shall possess all the powers of the regular chairman. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. (Laws 1913, p. 564.)

For matters relating to:
Designation of Chairman by Governor, see Sec. 4.

**Sec. 14. Salaries and expenses.**—The annual salary of each commissioner shall be five thousand, five hundred dollars. The annual salary of the general counsel to the commission shall be four thousand, five hundred dollars. The annual salary of the secretary to the commission shall be three thousand, six hundred dollars. All rate experts, engineers, accountants and experts appointed by the commission, and all persons appointed by the general counsel to the commission, shall receive the compensation fixed by the commission; but no clerk, agent, special agent, examiner, auditor, inspector or other employee of the commission shall receive a salary or compensation exceeding one hundred and fifty dollars per month, and no stenographer employed by the commission shall receive a salary or compensation exceeding one hundred dollars per month. The commissioners, the general counsel to the commission, the secretary, their clerks, stenographers, rate experts, agents, special agents, examiners, engineers, accountants, auditors, inspectors, experts and other employees, shall have reimbursed to them all actual and necessary traveling

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and other expenses and disbursements incurred or made by them in the discharge of their official duties while away from their regular offices in the performance of such duties. (Laws 1913, p. 564.)

For matters relating to:
Salaries and expenses, how paid, see Sec. 15.

**Sec. 15. Salaries and expenses; how paid.**—All salaries and expenses of the commission shall be audited and allowed by the state auditor and paid monthly by the state treasurer upon the order of the auditor, out of the funds provided therefor. (Laws 1913, p. 565.)

For matters relating to:
Salaries and expenses, see Sec. 14.
The Secretary of State is not required to furnish stationery, etc., for the Commission (256 Mo. 669, 165 S. W. 703).

**Sec. 16. Jurisdiction of commission.**—The jurisdiction, supervision, powers and duties of the public service commission herein created and established shall extend under this act:

1. To all railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the same. (Laws 1913, p. 565.)

Receivers of railroads appointed by the Federal courts (4 Mo. P. S. C. 296, P. U. R. 1917 B, 425; 1 Mo. P. S. C. 334), and railroads three miles or over in length (1 Mo. P. S. C. 416) are subject to the Commission's jurisdiction. (See cross-references to Sec. 16-9.)

2. To all street railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the said street railroad. (Laws 1913, p. 565.)

Relief of street railways from burdensome franchise provisions is without the jurisdiction of the Commission (4 Mo. P. S. C. 13), but sanitary rules and regulations for the operation of street cars are within the state's police power (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482). (See cross-references to Sec. 16-9.

3. To such portion of the lines of any other railroad and street railroad as lie within this state, and to the person or corporation owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities and local transportation of persons or property within this state. (Laws 1913, p. 565.)

Foreign railroad corporations (268 Mo. 641, 187 S. W. 827) and foreign refrigerator transit companies (1 Mo. P. S. C. 29), doing business within the state, are subject to the Commission's jurisdiction, as are the stock, bond or note issues of foreign railroad corporations against property within the state (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 236). The routing of interstate passenger trains within the state (2 Mo. P. S. C. 430, P. U. R. 1915 D, 961), but not in another (Ibid.), that adequate local service be had, is within the Commission's authority. (See cross-references to Sec. 16-9.

4. To all common carriers operating or doing business within this state. (Laws 1913, p. 565.)

Terminal facilities at stockyards for handling live stock are part of the equipment of common carriers subject to the Commission's jurisdiction (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661). (See cross-references to Sec. 16-9.)

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5. To the manufacture, sale or distribution of gas, natural and artificial, and electricity for light, heat and power, within the state, and to persons or corporations owning, leasing, operating or controlling the same; and to gas and electric plants, and to persons or corporations owning, leasing, operating or controlling the same. (Laws 1913, p. 565.)

Rates and service of municipal electric utilities are subject to the Commission's jurisdiction (2 Mo. P. S. C. 442, P. U. R. 1915 D, 974). (See cross-references Sec. 16-9.)

6. To all telephone lines, as above defined, and all telegraph lines, as above defined, and to every telephone company, and to every telegraph company, so far as said telephone and telegraph lines are and lie, and so far as said telephone companies and said telegraph companies conduct and operate such line or lines, respectively, within this state. (Laws 1913, p. 565.)

A telephone utility furnishing toll (1 Mo. P. S. C. 409; 3 Mo. P. S. C. 559, P. U. R. 1916 E, 296) or other service for hire, although rendering service to shareholders on the assessment basis (4 Mo. P. S. C. 611), is subject to the Commission's jurisdiction; but the Commission is without jurisdiction over purely mutual telephone companies (4 Mo. P. S. C. 308, P. U. R. 1917 A, 245; 2 Mo. P. S. C. 103; 2 Mo. P. S. C. 107; 2 Mo. P. S. C. 116). (See cross-references Sec. 16-9.)

7. To all water corporations, and to the land, property, dams, water supplies, or power stations thereof and the operation of same within this state; provided, that nothing contained in this act shall be construed as conferring jurisdiction upon the public service commission over the service or rates of any municipally owned water plant or system in any city of this state, except where such service or rates are for water to be furnished or used beyond the corporate limits of such municipality. (Laws 1913, p. 566, as amended by Laws 1917, p. 432.)

Commission is vested with jurisdiction over rates of municipally owned water utilities (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576; 2 Mo. P. S. C. 442, P. U. R. 1915 D, 974), and utilities rendering service to a limited community only (4 Mo. P. S. C. 28); but, while the filing of rate schedules has been considered to waive the question of jurisdiction (Ibid.), jurisdiction is not to be asserted where it does not exist, although such schedules have been filed (4 Mo. P. S. C. 412, P. U. R. 1917B, 576). (See cross-references Sec. 16-9.)

8. To all persons, corporations or partnerships engaged in the "transportation of property or freight," as above defined, within this state. (Laws 1913, p. 566.)

The determination of interstate or intrastate character of shipments rests upon the law as expounded by the Supreme Court of the United States (268 Mo. 109, 186 S. W. 703). Federal jurisdiction over interstate commerce requiring a general system or uniformity of regulation is exclusive (268 Mo. 109, 186 S. W. 703; 2 Mo. P. S. C. 560, P. U. R. 1915 F, 489), over interstate commerce not requiring a general system or uniformity of regulation is not exclusive until exercised (Ibid.), and over commerce purely local does not exist (Ibid.). The jurisdiction of the Commission is limited to intrastate transportation (1 Mo. P. S. C. 624), and interstate shipments (1 Mo. P. S. C. 212), as shipments from and to points within the state, passing en route without the state (1 Mo. P. S. C. 600), or state shipments of ties to a hold yard of the shipper prior to shipment outside the state are interstate shipments (268 Mo. 109, 186 S. W. 703, reversing 1 Mo. P. S. C. 212), are not subject to the Commission's jurisdiction, but shipments from one point to another within the state are intrastate shipments, although later, under direction of another, such shipments move outside the state (269 Mo. 63, 189 S. W. 377, P. U. R. 1917 D, 215; 1 Mo. P. S. C. 600), or are held on hold tracks within another state for the convenience of the carrier (Ibid.). The mere carriage of interstate commerce by a train (1 Mo. P. S. C. 624) does not divest the Commission of jurisdiction, and that adequate local service may be had, the Commission is vested with jurisdiction over the routing (2 Mo. P. S. C. 430, P. U. R. 1915 D, 961), stoppage (4 Mo. P. S. C. 230, P. U. R. 1917 B, 417; 2 Mo. P. S. C. 525), or rearrangement of

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schedules (4 Mo. P. S. C. 230, P. U. R. 1917 B, 417; 2 Mo. P. S. C. 510; 1 Mo. P. S. C. 278) of interstate trains. Knowledge or intention of shipper (268 Mo. 109, 186 S. W. 703; 1 Mo. P. S. C. 212), stoppage in transit (Ibid.) or carriage by an independent water carrier (Ibid.) is given consideration in determining nature of shipments. This law does not apply to interstate commerce (Section 138). (See cross-references to Sec. 16-9.)

9. To all public utility corporations and persons whatsoever subject to the provisions of this act as herein defined. And to such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly. (Laws 1913, p. 566.)

For matters relating to (including preceding subsections):
Definitions, see Sec. 2.
Necessary powers of Commission, see Sec. 3.
Certain sections more specifically, consult specific sections and see Secs. 43-1, 69-1, 90-1.
Interstate commerce, see Secs. 66, 138.
Repeal of former statutes, see Sec. 139, and consult specific sections.

The Commission has no power of legislation (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005; 2 Mo. P. S. C. 84) and may not repeal a statute (259 Mo. 704, 168 S. W. 1156; —— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005; 2 Mo. P. S. C. 560, P. U. R. 1915 F, 489); nor is it a part of the judicial system of the state (268 Mo. 109, 186 S. W. 703; —— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005; 259 Mo. 704, 168 S. W. 1156; 1 Mo. P. S. C. 416; 1 Mo. P. S. C. 80; 2 Mo. P. S. C. 1), being a representative agency established by the Legislature (268 Mo. 109, 186 S. W. 703) for the performance of delegated quasi-legislative and administrative functions (1 Mo. P. S. C. 416). The Commission may make findings of fact and orders (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005); and while it is without power to expound authoratively any principle of law or equity (268 Mo. 109, 186 S. W. 703), the discharge of its duty at times necessitates a determination as to whether it may legally act under a given law (2 Mo. P. S. C. 15; 2 Mo. P. S. C. 560, P. U. R. 1915 F, 489), as it seeks to observe and not disregard the law in its determinations (4 Mo. P. S. C. 116), and, accordingly, it has been considered that Laws 1911, p. 161-2, declaring railroads three miles or more in length common carriers, is constitutional (1 Mo. P. S. C. 416); that the Public Service Commission law does not deprive utilities of property without due process of law (Ibid.); or repeal Sec. 2981, R. S. 1909, limiting bonded indebtedness to capital stock (4 Mo. P. S. C. 660, P. U. R. 1917 C, 17), but does relieve railroads from the former statutory (1 Mo. P. S. C. 640) and ordinance (2 Mo. P. S. C. 295) obligations with respect to highway and track intersections (but see Sec. 139), and takes from certain cities the former exclusive control over municipal streets (4 Mo. P. S. C. 499; 2 Mo. P. S. C. 471, P. U. R. 1915 F, 149), and supersedes Sec. 3241, R. S. 1909, the continuous mileage law (1 Mo. P. S. C. 600); that trial by jury was not "heretofore enjoyed" in proceedings had under this law (1 Mo. P. S. C. 416); that prior statutory regulations establishing fixed railroad rates (3 Mo. P. S. C. 75) and legislation relative to headlights on switch engines (2 Mo. P. S. C. 560) have been superseded; that sections 27, 33, 34, 35, 37 and 139 are cumulative and supplemental to sections 3173, 3184 and 3185, R. S. 1909, treating of railroad discriminations (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109), whereas the constitutionality of section 3173, R. S. 1909, the long and short haul provision, is left for the courts (4 Mo. P. S. C. 7); that ordinances not passed in accordance with statutory provisions (1 Mo. P. S. C. 632; 2 Mo. P. S. C. 235) or passed under statutes superseded by the Public Service Commission law (4 Mo. P. S. C. 412; 4 Mo. P. S. C. 499; 2 Mo. P. S. C. 471, P. U. R. 1915 F, 149) are inoperative; and that the state's police power, as evidenced in Laws 1913, p. 187, yields to Congressional action, exclusive in its nature (U. S. Comp. Stats., Sup. 1911, p. 1321), regulating hours of labor of towermen (2 Mo. P. S. C. 15), or headlights on switch engines (1 Mo. P. S. C. 600). The Commission is without authority to grant relief by injunction (4 Mo. P. S. C. 490, P. U. R. 1917 A, 351; 1 Mo. P. S. C. 80; 2 Mo. P. S. C. 1), except to initiate injunctive proceedings under statutory authority conferred (1 Mo. P. S. C. 80; 2 Mo. P. S. C. 1), or mandamus (1 Mo. P. S. C. 80; 2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004); to decide the constitutionality of legislative enactments (2 Mo. P. S. C. 15; 2 Mo. P. S. C. 531; 4 Mo. P. S. C. 7; 259 Mo. 704, 168 S. W. 1156); to pass on the franchise right of a utility to sell natural or artificial gas (3 Mo. P. S. C. 403), the right of a mutual telephone utility to use public roads and streets (2 Mo. P. S. C. 103; 2 Mo. P. S. C. 107), or pass on the construction of ordinances (2 Mo. P. S. C. 508, P. U. R. 1915 F, 1), such as require the payment of a license tax (Ibid.); or decide objections to the vacation of a street and effect of occupancy by a station upon the flow of water (2 Mo. P. S. C. 289, P. U. R. 1915 C, 865), or the title to a station site (2 Mo. P. S. C. 289, P. U. R. 1915 C, 865); nor can it enforce private contract obligations (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), except insofar as they relate to rates and service (4 Mo. P. S. C. 116); set aside mortgages as void (4 Mo. P. S. C. 238, P. U. R. 1917 A, 247); grant relief because of

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refusal of an officer to render an accounting (Ibid.), grant relief against the exclusion of directors and shareholders in the management of a telephone utility (Ibid.), grant relief from the payment of a mill tax (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482); or adjudicate a controversy growing out of a personal encounter (3 Mo. P. S. C. 326); or order a refund of overcharges for (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645) or award damages for the discontinuance of (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144) service, or refund payments by consumers for extensions of service mains (3 Mo. P. S. C. 515, P. U. R. 1916 E, 204). The Commission is not disposed to consider the constitutionality of this act, it being a question for the courts (1 Mo. P. S. C. 699), as is the determination of an abandonment of streets (4 Mo. P. S. C. 522, P. U. R. 1917 C, 42). The Commission is not disposed to assume jurisdiction unless fully satisfied it exists (1 Mo. P. S. C. 29), as it may exercise only such powers as are expressly conferred (—— Mo. ——, 192 S. W. 958, P. U. R. 1917 D, 752); and it has been held without jurisdiction over stockyard companies (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661), or the reasonableness of charges for ice manufactured by an electric utility (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), or the number of grain elevators in a given locality (3 Mo. P. S. C. 529); but public utility officers, agents, servants and employees are subject to its authority (1 Mo. P. S. C. 130). Neither the doctrine of *res judicata* (1 Mo. P. S. C. 412) nor the pendency of court proceedings to restrain the erection of a station at other than the former site, with reference to the jurisdiction of the Commission over the erection of a station at some point other than the former site (1 Mo. P. S. C. 109), divests the Commission of its authority. The Commission's jurisdiction does not extend beyond the limits of the state (1 Mo. P. S. C. 278).

**Sec. 17. Certain acts prohibited.**—Every commissioner, the general counsel to the commission, the secretary of the commission, and every person employed or appointed to office, either by the commission, or by the general counsel to the commission, is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any corporation or person subject to the supervision of the commission, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. And every such corporation and person, and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any commissioner, the general counsel to the commission, to the secretary thereof, or to any person employed by the commission or by the general counsel to the commission, any office, place, appointment or position, or to offer or give to any commissioner, to the general counsel to the commission, to the secretary thereof, or to any officer employed or appointed to office by the commission or by the general counsel to the commission, any free pass or transportation or any reduction in fare to which the public generally are not entitled or free carriage for property or any present, gift or gratuity of any kind. If any commissioner, the general counsel to the commission, the secretary thereof or any person employed or appointed to office by the commission or by the general counsel to the commission, shall violate any provision of this section he shall be removed from the office held by him. Every commissioner, the general counsel to the commission, the secretary thereof and every person employed or appointed to office by the commission or by the general counsel to the commission, shall be and be deemed to be a public officer. (Laws 1913, p. 566.)

**Sec. 18. Reports of commission.**—1. All proceedings of the commission and all documents and records in its possession shall be public records. The commission shall make and submit to the governor on or before the second Monday in January in each year

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a report containing a full and complete account of its transactions and proceedings for the preceding fiscal year, together with such other facts, suggestions and recommendations as it may deem of value to the people of the state, which report shall be laid before the next succeeding legislature. (Laws 1913, p. 566.)

2. The commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of the commission, if requested to do so by the legislature or by either branch thereof or by the governor, and shall report its conclusions to the legislature, or to the governor if the request was made by him. The commission may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest. (Laws 1913, p. 567.)

**Sec. 19. Decisions to be published.**—The commission shall furnish its secretary all of its findings, orders and decisions and the secretary shall compile the same for the purpose of publication in a series of volumes to be designated "Reports of the public service commission of the state of Missouri," which shall be published in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the findings, orders and decisions of the commission therein contained without any further proof or authentication thereof. (Laws 1913, p. 567.)

**Sec. 20. Certified copies of papers filed to be evidence.**—Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary of the commission to be true copies of the originals, under the official seal of the commission, shall be evidence in like manner as the originals. (Laws 1913, p. 567.)

For matters relating to:
Record upon review, see Secs. 111, 114.

**Sec. 21. Fees to be charged and collected by the commission.**—The commission shall charge and collect the following fees: For copies of papers and records not required to be certified nor otherwise authenticated by the commission, ten cents for each one hundred words and figures; for certified copies of official documents and orders filed in its office, fifteen cents for each one hundred words and figures and one dollar for every certificate under seal affixed thereto; for each certified copy of the annual report of the commission, one dollar and fifty cents; for certified copies of evidence and proceedings taken before the commission, fifteen cents for each one hundred words and figures; for certificate authorizing an issue of bonds, notes or other evidences of indebtedness, one dollar for each thousand dollars of the face value of the authorized issue, or fraction thereof, up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and twenty-five cents for



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each one thousand dollars over ten million dollars, with a minimum fee in any case of two hundred and fifty dollars: *Provided*, that no fee shall be charged when such issue is made for the purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness up to the amount of the issue guaranteed, taken over, refunded, discharged or retired. No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, into the treasury of the state to the credit of the general revenue fund. (Laws 1913, p. 567.)

For matters relating to:
Fees for testing track scales, see Sec. 39.

The warrant for taxing costs and fees must be found in the express words of the statute, otherwise it does not exist (1 Mo. P. S. C. 97). This section is a reasonable and proper exercise of legislative discretion (268 Mo. 641, 187 S. W. 827), affording the only rule for guidance of the Commission in fixing the amount of the fees (Ibid.), which fees are in no sense a tax but are primarily to reimburse the state for the maintenance of the Commission (Ibid.), and when assessed in accordance herewith must stand, even though the amount of securities far exceeds the value of the property in this state (Ibid.), or payment is made under written protest (Ibid.). Fees for refunding bonds are not exacted (1 Mo. P. S. C. 236), whether or not the original issue was approved (1 Mo. P. S. C. 97), but for bonds not refunding are assessed (1 Mo. P. S. C. 236).

**Sec. 22. Attendance of witnesses and their fees.**—1. All subpoenas shall be signed and issued by a commissioner or by the secretary of the commission, and shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record or by any person of full age designated for that purpose by the commission or by a commissioner. The person executing any such process shall receive the fees now prescribed by law for similar services in civil cases in the circuit courts in this state, and shall be paid in the same manner as provided herein for the payment of the fees of the witnesses. Each witness who shall appear before the commission or a commissioner by its or his order, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in the circuit courts of this state, which shall be audited and paid by the state in the same manner as other expenses of the commission are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the commission. (Laws 1913, p. 568.)

2. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the commission, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one

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day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioner, as directed in the subpoena. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation. (Laws 1913, p. 568.)

3. It shall be the duty of every public officer, without exacting or receiving charge or fee of any kind, to furnish to the commission, upon application, a certified copy of any document or part thereof, on file in his office, and no public officer shall be entitled to receive from the commission any fee for entering, filing, docketing or recording any document required or authorized by law to be filed in his office. (Laws 1913, p. 568.)

For matters relating to:
Production of books, etc., of common carriers, see Sec. 43-2.
Production of books, etc., of electric, gas or water utilities, see Sec. 69-10.
Production of books, etc., of telephone or telegraph utilities, see Sec. 90-2.
Production of books, etc., kept outside the state, see Sec. 121.
Immunity of witnesses, see Sec. 125.

**Sec. 23. Witnesses refusing to attend or refusing to produce books or papers guilty of misdemeanor—penalty.**—If a person subpoenaed to appear before the commission or a commissioner fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance upon the commission or a commissioner shall, without a reasonable cause, refuse to be sworn or to be examined, or answer a question, or to produce a book or paper when ordered to do so by the commission or a commissioner, or to subscribe or swear to his deposition after it has been correctly produced in writing, he shall be deemed guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, and may be prosecuted therefor in any court of competent jurisdiction; and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense. (Laws 1913, p. 569.)

For matters relating to:
Production of books, etc., kept outside the state, see Sec. 121.
Immunity of witnesses, see Sec. 125.

**Sec. 24. Commission to adopt rules to govern hearings.**—All hearings before the commission or a commissioner shall be governed by rules to be adopted and prescribed by the commission. And in all investigations, inquiries or hearings the commission or a commissioner shall not be bound by the technical rules of evidence. No formality in any proceeding nor in the manner of taking testimony before the commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission. (Laws 1913, p. 569.)

For matters relating to:
Complaints, how made in general, see Secs. 107, 108.
Hearings, how conducted in general, see Sec. 109.

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Rehearings before the Commission, see Sec. 110.
Substantial compliance with requirements of act sufficient, see Sec. 127.

Rules of practice and procedure and forms governing matters before the Commission have been adopted.

**Sec. 25. Service and effect of orders.**—Every order of the commission shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, or by mailing a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby, or, in the case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the code of civil procedure. It shall be the duty of every person and corporation to notify the commission forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of the commission every person and corporation upon whom it is served must if so required in the order notify the commission in like manner whether the terms of the order are accepted and will be obeyed. Every order or decision of the commission shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this act or any other act or be in violation of a provision of the Constitution of the state or of the United States. (Laws 1913, p. 569.)

For matters relating to:
Effect of orders in collateral proceedings, see Sec. 115.
Substantial compliance with requirements of act sufficient, see Sec. 127.

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## ARTICLE II.

### PROVISIONS RELATING TO RAILROADS, STREET RAILROADS AND COMMON CARRIERS.

Section 26. Application of article.
27. Safe and adequate service; just and reasonable charges.
28. Switch and side-track connection; powers of commission.
29. Tariff schedules publication.
30. Common carriers to furnish correct rates on written request; penalty and damage for failure.
31. Changes in schedule; notice required.
32. Concurrence in joint tariffs; contracts, agreements, or arrangements between any carriers.
33. Unjust discrimination.
34. Unreasonable preference.
35. Transportation prohibited until publication of schedules; rates as fixed to be charged; passes prohibited.
36. False billing, et cetera, by carrier or shipper.
37. Discrimination prohibited; connecting lines.

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Section 38. Distribution of cars; collection and distribution of express packages.
39. Common carrier to furnish facilities for testing track scales.
40. Liability for damage for property in transit.
41. Continuous carriage.
42. Liability for loss or damage caused by violation of this act.

**Section 26. Application of article.**—The provisions of this article shall apply to the transportation of passengers or property from one point to another within this state, and to any common carrier performing such service. (Laws 1913, p. 570.)

For matters relating to:
Definitions, see Sec. 2.
Jurisdiction, see Sec. 16.
Similar provisions, see Secs. 67, 86.

**Sec. 27. Safe and adequate service; just and reasonable charges.**—Every corporation, person or common carrier performing a service designated in the preceding section shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such corporation, person or common carrier for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith, as defined in section two of this act, shall be just and reasonable and not more than allowed by law or by order or decision of the commission and made as authorized by this act. Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers or property or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited. (Laws 1913, p. 570.)

For matters relating to:
General powers and duties of Commission, see Sec. 43.
Similar provisions, see Secs. 68-1, 87-1.
Consult specific sections.

Cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109).

**Sec. 28. Switch and side-track connection; powers of commission.**—1. A railroad corporation, upon the application of any shipper tendering traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection or connections with a lateral line of railroad or private side-track owned, operated or controlled by such shipper, and shall, upon the application of any shipper, provide upon its own property a side-track and switch connection with its line of railroad, whenever such side-track and switch connection is reasonably practicable, can be put in with safety and the business therefor is sufficient to justify the same. (Laws 1913, p. 570.)

Shippers may require railroads to construct and operate switch connections with private sidetrack facilities hereunder (1 Mo. P. S. C. 396), and such tracks are devoted to public use (3 Mo. P. S. C. 476).

2. If any railroad corporation shall fail to install or operate any such switch connection with a lateral line of railroad or any such side-track and switch connection as aforesaid, after written

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application therefor has been made to it, any corporation or person interested may present the facts to the commission by written petition, and the commission shall investigate the matter stated in such petition, and give such hearing thereon as it may deem necessary or proper. If the commission be of opinion that it is safe and practicable to have a connection, substantially as prayed for, established or maintained, and that the business to be done thereon justifies the construction and maintenance thereof, it shall make an order directing the construction and establishment thereof, specifying the reasonable compensation to be paid for the construction, establishment and maintenance thereof, and may in like manner upon the application of the railroad corporation order the discontinuance of such switch connection. (Laws 1913, p. 571.)

For matters relating to:
Interchange tracks, see Sec. 47-4.
Power of commission to order changes, see Sec. 49.

Commission vested with jurisdiction over switch connections with private industry tracks, although such connection will be used for interstate as well as state traffic (1 Mo. P. S. C. 658), or contract provisions exist exempting one or both railroads from such statutory duty (Ibid.); but its jurisdiction is limited to the construction of connecting switches from the railroad's track to line of its right of way (Ibid.; Mound City M. & E. Co. v. C., B. & Q. R. R., decided Aug .27, 1917), and apportionment of expenses therein incurred (Mound City M. & E. Co. v. Chicago, B. & Q. R. R., decided Aug. 27, 1917). Applications for switch connections with private industry tracks have been approved (1 Mo. P. S. C. 658; Mound City M. & E. Co. v. C., B. & Q. R. R., decided Aug. 27, 1917), but the construction of an outlying switch was denied on account of attending dangers and limited business (3 Mo. P. S. C. 578), as was permission to use an industrial side track maintained for the accommodation of another (2 Mo. P. S. C. 92). Annual carload freight charges, in addition to less than carload charges, of $5,159.74 to an individual shipper justifies an assignment of $1,648.95 of a total expense of $2,548.95 to the railroad in the construction of an industrial side track on its right of way (Mound City M. & E. Co. v. Chicago, B. & Q. R. R., decided Aug. 27, 1917). Existence of a monopoly of the business of a given city by a railroad does not justify a refusal to furnish private industrial side track facilities (Mound City M. & E. Co. v. Chicago, B. & Q. R. R., decided Aug. 27, 1917).

**Sec. 29. Tariff schedules publication.**—Every common carrier shall file with the commission and shall print and keep open to public inspection schedules showing the rates, fares and charges for the transportation of passengers and property within this state between each point upon its route and all other points thereon; and between each point upon its route and all points upon every route leased, operated or controlled by it; and between each point on its route or upon any route leased, operated or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to public inspection, as aforesaid, the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid shall plainly state the places between which property and passengers will be carried, and shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require to be

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stated, all privileges or facilities granted or allowed, and any rules or regulations which may in any way change, affect or determine any part or the aggregate of such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee. Such schedules shall be plainly printed in large type, and a copy thereof shall be kept by every such carrier readily accessible to and for convenient inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation, when such station or office is in charge of an agent, and in every station or office of such carrier where passenger tickets for transportation or tickets covering sleeping or parlor car or other train accommodation are sold or bills of lading or receipts for property are issued. All or any of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person. A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person and that the agent will assist any such person to determine from such schedules any transportation rates or fares or rules or regulations which are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the commission and shall conform in the case of railroad corporations as nearly as may be to the form of schedule required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto. The commission shall have power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting and filing of schedules either in particular instances or by general order applicable to special or peculiar circumstances or conditions. (Laws 1913, p. 571.)

For matters relating to:
Duty to furnish rates upon request, see Sec. 30.
Changes in schedules, notice required, see Sec. 31.
Concurrence in joint tariffs, etc., see Sec. 32.
Transportation prohibited until publication and filing of schedules, see Sec. 35.
Deviation from schedules prohibited, see Sec. 35.
Power of Commission to prescribe just and reasonable rates, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.
Similar provisions, see Secs. 69-12. 88.

Regulations prescribing the form and governing the construction and filing of freight tariffs and classifications and passenger fare schedules of railroad corporations, street railroad corporations and steamboat companies (G. O. Nos. 2, 18 and 19, Circulars No. 4 and Supplements 1 and 2 thereto) have been adopted.

**Sec. 30. Common carriers to furnish correct rates on written request; penalty and damage for failure.**—It shall be the duty of every common carrier doing an intrastate business within this state upon written request therefor, by any person who is a *bona fide* prospective shipper or receiver of freight or who has a *bona fide* interest therein, made upon any general or local freight or station

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agent of such carrier, by any person, firm or corporation, to furnish and give a written statement of the rate or charge applicable to a described shipment between stated points or places in this state under the schedule or tariffs to which such carrier is a party, within a reasonable time; and if such carrier shall refuse or omit to give such statement within a reasonable time, or shall misstate in writing the applicable rate, and if the person, firm or corporation making such request suffers in consequence of such refusal or omission or in consequence of the misstatement of the rate, either through making the shipment over a line or route for which the proper rate is higher than the rate over another available line or route, or through entering into any sale, purchase or contract whereunder such person, firm or corporation obligates himself, themselves or itself, or becomes obligated to make or receive such shipment of freight at his, their or its cost, then the said carrier shall be liable to a penalty of not less than one hundred dollars nor more than three hundred dollars, which shall accrue to the state of Missouri, and be recovered in a civil action by the commission, and shall also be liable to the person, firm or corporation injured as aforesaid for the amount of such injury, together with six per cent. interest thereon from the date of such injury, and with a reasonable attorney's fee: *Provided*, that no such liability shall be discharged by such carrier unless the same be approved by the commission as being free from any attempt or purpose to evade any other law of this state; *and provided further*, that, if during the course of any action upon such liability to the person injured, it shall appear to the satisfaction of the court or jury trying any such cause, that the parties have combined or agreed to obtain or allow any undue advantage or rebate or preference to such injured person, upon a finding to that effect, such cause shall be dismissed and the dismissal and finding reported by said court to the commission. Such dismissal shall be taken and deemed a final judgment, and appeal may be taken therefrom or from any other judgment in any such cause the same as in other civil cases. No carrier making any settlement or payment upon the approval of the commission or pursuant to a judgment or order of court under this section shall be liable for any penalty or forfeiture or subject to any prosecution under any other law of this state on account of the said payment or settlement. The commission may require from any person, firm or corporation any information deemed by the commission necessary to the determination of the question whether it shall give its approval to any such claim, and if the same be refused by the injured person, may decline said claim, and it shall not be sued upon thereafter; if such information be refused or request therefor be evaded or the search for information by the commission be made difficult by the carrier, the commission shall endorse such fact on said claim and it shall thereafter support an action as if approved by the commission. (Laws 1913, p. 572.)

**Sec. 31. Changes in schedule; notice required.**—Unless the commission otherwise orders no change shall be made in any rate,

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fare or charge, or joint rate, fare or charge, which shall have been filed and published by a common carrier in compliance with the requirements of this act except after thirty days' notice to the commission and publication for thirty days as required by this act, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, fare or charge will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission, for good cause shown, may allow changes in rates without requiring the thirty days' notice and publication herein provided for, by duly filing and publishing in such manner as it may direct an order specifying the change so made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedules by the common carrier. (Laws 1913, p. 573.)

For matters relating to:
Filing and publication of tariffs, see Sec. 29.
Duty to furnish rates upon request, see Sec. 30.
Concurrence in joint tariffs, etc., see Sec. 32.
Deviation from schedules prohibited, see Sec. 35.
Power of Commission to prescribe just and reasonable rates, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.
Similar provisions, see Secs. 69-12, 88.

Applications for changes in schedule upon less than statutory notice have been approved (1 Mo. P. S. C. 15), but are now generally handled through the issuance of authorities.

**Sec. 32. Concurrence in joint tariffs; contracts, agreements, or arrangements between any carriers.**—1. The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of the tariffs in which they are named as parties. (Laws 1913, p. 574.)

2. Every common carrier shall file with the commission sworn copies of every contract, agreement or arrangement with any other common carrier or common carriers relating in any way to the transportation of passengers or property. (Laws 1913, p. 574.)

For matters relating to:
Filing and publication of tariffs, see Sec. 29.
Changes in schedule, notice required, see Sec. 31.
Transportation prohibited until publication and filing of schedules, see Sec. 35.
Deviation from schedule prohibited, see Sec. 35.
Power of Commission to prescribe just and reasonable rates, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.

Contracts between railroads and sleeping car companies should be filed with the Commission (2 Mo. P. S. C. 646, P. U. R. 1916 B, 223).

**Sec. 33. Unjust discrimination.**—No common carrier shall, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect or receive from any person or corporation a greater or less or different compensa-

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tion for any service rendered or to be rendered in the transportation of passengers or property, except as authorized in this act, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions. (Laws 1913, p. 574.)

For matters relating to:
Free or reduced transportation, see Sec. 35.
False billing, classification, weight, etc., see Sec. 36.
Connecting lines, see Secs. 37, 47.
Continuous carriage, see Sec. 41.
Power of Commission to determine just and reasonable rates, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.
Power over interstate rates, see Sec. 66, 138.
Similar provisions, see Secs. 68-2, 87-2.

Question of repeal of earlier statutes hereby is for the courts (4 Mo. P. S. C. 7). This section is cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109). Undue, unfair, unjust or unreasonable discrimination is unlawful (3 Mo. P. S. C. 507, P. U. R. 1916 E, 47), and when in favor of a class against the public at large is more odious than discrimination between individuals (1 Mo. P. S. C. 312). Distribution of burden of transportation so as to prevent discrimination between commodities necessitates consideration of loading, revenue, liability involved and class of equipment used (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 1 Mo. P. S. C. 679), a comparison of rates being proper only where conditions are similar (4 Mo. P. S. C. 1). A system of rate making which places on a common level localities enjoying different natural advantages and geographical privileges (1 Mo. P. S. C. 312), the arbitrary charging of different railroad rates in different portions of the state (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), the non-application of lumber rates to articles properly basing upon lumber rates (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), a lesser charge for storage of baggage of traveling salesmen on certain days than to others (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005), or refusal of street or interurban railways to issue transfers to one part of a city when issuing them to all other parts (3 Mo. P. S. C. 507, P. U. R. 1916 E, 47) have been held unlawful discriminations. The absorption of switching charges should be made under similar circumstances and conditions (1 Mo. P. S. C. 303), but the absorption of switching charges on traffic to competitive points and refusal to absorb on traffic to non-competitive points is not discriminatory unless in violation of the long and short haul provisions (4 Mo. P. S. C. 1). Milling in transit conjures two local shipments into one through shipment and evades the rate-making principle that a short haul demands a proportionately higher rate than a long or through haul (1 Mo. P. S. C. 312). Discriminations due to a greater charge for a short haul than a longer haul are to be rectified, by lowering the higher rate (4 Mo. P. S. C. 549, P. U. R. 1917 C, 39), or, in case of connecting carriers, by joint rate agreements (4 Mo. P. S. C. 546), although the points be on different branch lines (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109). Street railroad zone rates, based upon logical zone points, are proper (1 Mo. P. S. C. 287). Discriminatory railroad rates readjusted (3 Mo. P. S. C. 301).

**Sec. 34. Unreasonable preference.**—No common carrier shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (Laws 1913, p. 574.)

For matters relating to:
Connecting lines, see Secs. 37, 47.
Distribution of cars, see Sec. 38.
Continuous carriage, see Sec. 41.
Power of Commission to determine just and reasonable service, see Sec. 47.
Similar provisions, see Secs. 68-3, 87-3.

Question of repeal of earlier statutes hereby is for the courts (4 Mo. P. S. C. 7). This section is cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo.

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P. S. C. 620, P. U. R. 1917 D, 109). Where all cars of a street railway system are cleansed, heated and ventilated in the same manner no discrimination exists (1 Mo. P. S. C. 291). Requests for cars should be filled in the order filed (3 Mo. P. S. C. 326) and delivery of empty chicken coops should be made in the same manner as delivery of other freight to prevent discrimination (3 Mo. P. S. C. 326). Evidence examined and held insufficient to show discrimination in lease of storage space (3 Mo. P. S. C. 372) or site for grain elevator (3 Mo. P. S. C. 529).

**Sec. 35. Transportation prohibited until publication of schedules; rates as fixed to be charged; passes prohibited.**—1. No common carrier subject to the provisions of this act shall after the taking effect of this act engage or participate in the transportation of passengers or property, between points within this state, until its schedules of rates, fares and charges shall have been filed and published in accordance with the provisions of this act. Any railroad corporation, or common carrier, which shall undertake to perform any service or furnish any product or commodity unless or until the rates, tolls, fares, charges, classifications and rules and regulations relating thereto, applicable to such service, product or commodity, have been filed with the commission and published in accordance with the provisions of this act, shall forfeit to the state not less than one hundred dollars nor more than five hundred dollars. No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of passengers or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. (Laws 1913, p. 574, as amended by Laws 1917, p. 438.)

For matters relating to:
- Filing and publication of tariffs, see Sec. 29.
- Changes in tariffs, notice required, see Sec. 31.
- Concurrence in joint tariffs, see Sec. 32.
- Unjust discrimination, see Sec. 33.
- False billing, classification, weight, etc., see Sec. 36.
- Connecting lines, see Secs. 37, 47.
- Power of Commission to determine just and reasonable rates, see Sec. 47.
- Power of Commission to stay increased rates, see Sec. 48.
- Power of Commission over commutation, mileage, round trip and reduced rate tickets, see Sec. 47-1.
- Power of Commission over interstate rates, see Sec. 66, 138.
- Similar provisions, see Secs. 69-12, 88.

This section is cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109). Payment of charges for transportation by common carriers should be made in money (1 Mo. P. S. C. 46; C. R. No. 1, May 21, 1913).

2. No common carrier, subject to the provisions of this act shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers or property between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys-at-law, not to exceed two bondsmen in each county, and the dependent members of their families, to necessary

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caretakers of live stock, poultry, fruit and vegetables in transit and return to point of shipment, employees of sleeping car companies and employees of express companies, and employees of telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employees; to newsboys on trains, baggage agents, persons injured in accidents or wrecks and physicians and nurses attending such persons; to the carriage free or at reduced rates of property to or from state and county fairs and expositions for exhibit thereat. (Laws 1913, p. 575, as amended by Laws 1917, p. 439.)

Carrying of passengers free of charge on and after July 31, 1913, prohibited (C. R. No. 4, May 23, 1913). This subsection construed (C. R. No. 5, July 22, 1913; 1 Mo. P. S. C. 46) with reference to free transportation of employees serving on grievance committees and board of adjustments and dependent members of families (C. R. No. 11, March 16, 1914). Transportation of more than two bondsmen in each county free of charge prohibited (C. R. No. 3, May 21, 1913). The transportation of directors of common carriers free of charge under certificates issued prior to the effective date of the P. S. C. L., in consideration of promotion services, is prohibited (1 Mo. P. S. C. 46). Consult Sec. 35-1.

3. Nothing in this act shall be construed to prohibit the interchange of free or reduced transportation between common carriers of or for their officers, agents, employees, attorneys and surgeons, and the dependent members of their families, nor to prohibit any common carrier from carrying passengers or property free, with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prohibit any common carrier from transporting persons or property as incident to or connected with contracts for construction, operation or maintenance, and to the extent only that such free transportation is provided for in the contract for such work, nor to prevent any common carrier from transporting children under five years of age free: *Provided further*, that nothing in this act shall prevent the issuance of mileage, excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under twelve years of age, or any other form of reduced rate passenger tickets, or joint interchangeable mileage tickets. But before any common carrier subject to the provisions of this act, shall issue any such mileage, excursion, school or family commutation, commutation half fare, or any other form of reduced rate passenger tickets, or joint interchangeable mileage tickets, it shall file with the commission copies of the tariffs or rates, fares or charges on which such tickets are to be based, in the same manner as common carriers are required to do with regard to other rates by this act. Nor shall anything in this act prevent the issuance of passenger transportation in exchange for advertising space in newspapers and magazines at full rates, nor shall anything in this act be construed to prevent the issuance of free or reduced transportation by any street railroad corporation to mail carriers, policemen and members of fire departments. *Provided, further*, that nothing in this act shall prevent the carriage, storage, or handling of properties or road building materials free or at reduced rates for the United States, state, municipal government or special road districts. *Provided, further*, that the

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term "employees," as used in this and in the preceding sub-division of this section shall include furloughed and pensioned and superannuated employees, persons who have become disabled or infirmed in the service of any such common carrier, and the remains of a person killed in the employment of a carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this and in the last preceding sub-division of this section shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood, and minor children during minority, of persons who died while in the service of any such common carrier. (Laws 1913, p. 575, as amended by Laws 1917, p. 439.)

This subsection construed (1 Mo. P. S. C. 46). Except transportation issued in exchange for advertising space in newspapers and magazines, nothing but money may be lawfully received or accepted in payment for transportation (C. R. No. 1, May 21, 1913). Transportation free or at reduced rates as incidental to or in connection with contracts for construction, operation or maintenance to the extent provided in the contract is legal (C. R. No. 10, November 24, 1913). Consult Sec. 35-1.

4. Nothing in this section nor in any other provision of law shall be deemed to limit the power of the commission to require the sale of, and upon investigation prescribe reasonable and just fares as the maximum to be charged for commutation, school or family commutation, mileage tickets over railroads or street railroads, joint interchangeable mileage tickets, round trip excursion tickets, or any other form of reduced rate passenger tickets over such railroads or street railroads: *Provided*, that all special round trip excursion tickets, the sale of which is limited to less than thirty days, except round trip excursion tickets to state and county fairs and return during the holding thereof, shall be deemed exempt from such regulation by the Commission. (Laws 1913, p. 576, as amended by Laws 1917, p. 440.)

For matters relating to:
Commutation, mileage, round trip, etc., tickets, see Sec. 47-1.
Consult Sec. 35-1.

**Sec. 36. False billing, et cetera, by carrier or shipper.**—No common carrier or any officer or agent thereof or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any passenger or property between points within this state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of this act, by means of false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. No person, corporation, or any officer, agent or employee of a corporation, who shall deliver property for transportation within this state to a common carrier, shall seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor, as aforesaid, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents of a package, or false report or statement of weight, or by any other device or means, whether with

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or without the consent or connivance of the common carrier, or any of its officers, agents or employees. (Laws 1913, p. 576.)

For matters relating to:
Discrimination, see Sec. 33.
Deviation from tariffs prohibited, see Sec. 35.
Power of Commission to determine just and reasonable rates, see Sec. 47.

**Sec. 37. Discrimination prohibited; connecting lines.**—Every common carrier is required to afford all reasonable, proper and equal facilities for the interchange of passenger and property traffic between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and for the prompt transfer of passengers and for the prompt receipt and forwarding of property to and from its said lines; and no common carrier shall in any way discriminate in respect to rates, fares or charges or in respect to any service or in respect to any charges or facilities for any such transfer in receiving or forwarding between any two or more other common carriers or between passengers or property destined to points upon the lines of any two or more other common carriers or in any respect with reference to passengers or property transferred or received from any two or more other common carriers. This section shall not be construed to require a common carrier to permit or allow any other common carrier to use its tracks or terminal facilities. Every common carrier, as such, is required to receive from every other common carrier, at a connecting point, freight cars of proper standard, and haul the same through to destination, if the destination be upon a line owned, operated or controlled by such common carrier, or if the destination be upon a line of some other common carrier, to haul any car so delivered through to the connecting point upon the line owned, operated, controlled or leased by it, by way of route over which such car is billed, and there to deliver the same to the next common carrier. Nothing in this section shall be construed as in anywise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers and property over the lines owned, operated, controlled and leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of the commission to require the establishment of such joint rates, fares and charges. A railroad corporation and a street railroad corporation shall not be required to interchange cars except on such terms and conditions as the commission may direct. (Laws 1913, p. 576.)

For matters relating to:
Discrimination in general, see Secs. 33, 34.
Deviation from tariffs prohibited, see Sec. 35.
False billing, etc., prohibited, see Sec. 36.
Continuous carriage, see Sec. 41.
Power of Commission to determine just and reasonable rates, see Sec. 47.
Power of Commission to determine just and reasonable service, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.
Power of Commission to order repairs or changes, see Sec. 49.
Power of Commission to order changes in time schedules, see Sec. 51.

This section is cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109).

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**Sec. 38. Distribution of cars; collection and distribution of express packages.**—1. Every railroad corporation or other common carrier engaged in the transportation of property shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor, and offer property for transportation, sufficient and suitable cars for the transportation of such property in carload lots. Every railroad corporation and street railroad corporation shall have sufficient cars and motive power to meet all requirements for the transportation of passengers and property which may reasonably be anticipated, unless relieved therefrom by order of the commission. In case, at any particular time, a common carrier has not sufficient cars to meet all requirements for the transportation of property in carload lots, all cars available to it for such purposes shall be distributed among the several applicants therefor, without discrimination between shippers, localities or competitive or non-competitive points, but preference may always be given in the supply of cars for shipment of live stock or perishable property. (Laws 1913, p. 577.)

For matters relating to:
Discrimination, see Sec. 34.
Power of Commission to determine just and reasonable service, see Sec. 47.
Requests for cars should be filled in the order filed (3 Mo. P. S. C. 326).

2. The commission shall have power to make, and by order shall make, reasonable regulations for the furnishing and distribution of freight cars to shippers, for the switching of the same, for the loading and unloading thereof, for demurrage charges in respect thereto, and for the weighing of cars and property offered for shipment or transported by any common carrier. (Laws 1913, p. 578.)

For matters relating to:
Power of Commission to determine just and reasonable rates and service, see Sec. 47.
Power of Commission to stay increased rates, see Sec. 48.

3. The commission shall have power to provide the time within which express packages will be received, gathered, transported and delivered at destination, and the limits within which express packages shall be gathered and distributed without extra charge. (Laws 1913, p. 578.)

For matters relating to:
Similar provisions, see Sec. 87-6.

**Sec. 39. Common carrier to furnish facilities for testing track scales.**—It shall be the duty of all railroad corporations and common carriers operating in this state, to provide suitable facilities for the testing of all track scales used by such railroad corporations and common carriers. The commission is hereby authorized, after a hearing upon its own motion and after notice to the railroads operating in this state, to order a suitable car or other device or facility to be provided by the railroad corporations and common carriers operating in this state, to be used in testing the track scales used by such railroads, the expenses of providing such car, device or facility to be equitably and reasonably apportioned among the different railroad companies by the commission. Such

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car, device or facility shall be used by the commission to test the accuracy of all track scales, and the different railroad corporations shall transport and move such car, device or facility, without charge therefor, to the different places designated by the commission under such reasonable rules and regulations as the commission may prescribe. Such car, device or facility may be used in adjoining states to test the scales of the railroad corporations and for that purpose may be taken beyond the limits of this state under such reasonable rules and regulations for the due care and return thereof as the commission may prescribe. The commission is hereby authorized to prescribe and collect a reasonable fee sufficient to cover the cost and expenses connected therewith for the inspection and testing of all scales. (Laws 1913, p. 578.)

For matters relating to:
Establishment of track scales, see Sec. 49.

**Sec. 40. Liability for damage to property in transit.**—Every common carrier and every railroad corporation and street railroad corporation shall, upon demand, issue either a receipt or bill of lading for all property delivered to it for transportation. No contract, stipulation or clause in any receipt or bill of lading shall exempt or be held to exempt any common carrier, railroad corporation or street railroad corporation from any liability for loss, damage or injury caused by it to property from the time of its delivery for transportation until the same shall have been received at its destination and a reasonable time shall have elapsed after notice to consignee of such arrival to permit of the removal of such property. Every common carrier, railroad corporation and street railroad corporation shall be liable for all loss, damage or injury to property caused by delay in transit due to negligence while the same is being carried by it, but in any action to recover for damages sustained by delay in transit the burden of proof shall be upon the defendant to show that such delay was not due to negligence. Every common carrier and railroad corporation shall be liable for loss, damage and injury to property carried as baggage up to the full value and regardless of the character thereof, but the value in excess of one hundred and fifty dollars shall be stated upon delivery to the carrier, and a written receipt stating the value shall be issued by the carrier, who may make a reasonable charge for the assumption of such liability in excess of one hundred and fifty dollars and for the carriage of baggage exceeding one hundred and fifty pounds in weight upon a single ticket. Nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing laws. (Laws 1913, p. 578.)

**Sec. 41. Continuous carriage.**—No common carrier shall enter into or become a party to any combination, contract, agreement or understanding, written or oral, express or implied, to prevent by any arrangement or by change of arrangement of time schedule, by carriage in different cars or by any other means or device whatsoever the carriage of property from being continuous

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from the place of shipment to the place of destination. No breakage of bulk, stoppage or interruption of carriage made by any common carrier shall prevent the carriage of property from being treated as one continuous carriage from the place of shipment to the place of destination. Nor shall any such breakage of bulk, stoppage or interruption of carriage be made or permitted by any common carrier except it be done in good faith for a necessary purpose without intention to avoid or unnecessarily interrupt or delay the continuous carriage of such property or to evade any of the provisions of law, of this act, or of an order or decision of the commission. (Laws 1913, p. 579.)

For matters relating to:
Concurrence in joint tariffs, see Sec. 32.
Discrimination between connecting lines, see Sec. 37.
Power of Commission to determine just and reasonable rates, see Sec. 47.
Power of Commission to determine just and reasonable service, see Sec. 47.

**Sec. 42. Liability for loss or damage caused by violation of this act.**—In case a common carrier shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by this act or by any order or decision of the commission, such common carrier shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that such act or omission was willful, it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation. (Laws 1913, p. 579.)

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## ARTICLE III.

### PROVISIONS RELATING TO THE POWERS OF THE COMMISSION IN RESPECT TO COMMON CARRIERS, RAILROADS AND STREET RAILROADS.

Section 43. General powers and duties of commission in respect to common carriers, railroads and street railroads.
44. Reports of common carriers, railroad corporations and street railroad corporations.
45. Investigation of accidents.
46. Investigations by commission.
47. Rates and service to be fixed by commission.
48. Power of commission to stay increased rate.
49. Power of commission to order repairs or changes.
50. Power of commission to abolish or permit grade crossings.
51. Power of commission to order changes in time schedules, running of additional cars and trains.



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Section 52. Uniform system of accounts; access to accounts, et cetera; forfeiture.
53. Franchises and privileges.
54. Right to issue stocks, bonds and notes is subject to regulation by state.
55. Transfer of franchises or stocks.
56. Sale of franchises or stocks.
57. Approval of issues of stocks, bonds and other forms of indebtedness.
58. Certificate of commission to be recorded; stock dividends prohibited.
59. Powers of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority void; penalties and forfeitures; state not liable.
60. Power of commission to ascertain valuation of common carriers.
61. Power of commission to require depreciation account of common carriers.
62. Reorganizations.
63. Forfeiture; penalties.
64. Summary proceedings.
65. Penalties for other than common carriers.
66. Duties of commission as to interstate traffic.

**Section 43. General powers and duties of commission in respect to common carriers, railroads and street railroads.**—1. The commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all the provisions of law, orders and decisions of the commission and charter requirements. The commission shall have power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in and upon and to inspect the property, equipment, buildings, plants, factories, power houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one way fare established by the common carrier for the transportation of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation

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has been furnished and the amount thereof ascertained. (Laws 1913, p. 580.)

For matters relating to:
Jurisdiction in general, see Sec. 16.
Service in general, see Secs. 27, 47.
Rates in general, see Secs. 27, 47.
Similar provision, see Secs. 69-1, 69-8, 81, 90-1.
Consult specific sections.

Reports on inspection of steam and electric railways (1 Mo. P. S. C. Misc. 569).

IN GENERAL. The Commission will require that to be done which moral honesty to the public and good faith in law require to be done (1 Mo. P. S. C. 416), and adequate service is to be had irrespective of donations by the public in aid of construction (2 Mo. P. S. C. 646, P. U. R. 1916 B, 223), but the Commission is not disposed to interfere in the details of actual operation and management (1 Mo. P. S. C. 232), and short of diverting traffic to avoid state regulation and control, carriers are free from commission interference to change character of shipments (1 Mo. P. S. C. 600; 4 Mo. P. S. C. 111).

REPARATION. This Commission may enter an order for reparation by railroads to be received as prima facie evidence (R. S. Mo. 1909, Sec. 3196; 2 Mo. P. S. C. 656, P. U. R. 1916 B, 645). Reparation is not to be had in proceedings passing upon an increase in rates (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), or in the absence of issue (1 Mo. P. S. C. 212), or in favor of any party not actually paying the charges questioned (3 Mo. P. S. C. 366), or of demurrage charges on cars held at the request of the consignee (4 Mo. P. S. C. 638), or where a construction of the tariff precludes such action (2 Mo. P. S. C. 518). Collection of alleged undercharge found not justified (3 Mo. P. S. C. 378).

2. The commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena *duces tecum* to compel production thereof. In lieu of requiring production of originals by subpoena *duces tecum*, the commission or any commissioner may require sworn copies of any such books, records, documents, contracts and papers or parts thereof to be filed with it. (Laws 1913, p. 581.)

For matters relating to:
Similar provisions, see Secs. 69-9, 69-10, 90-2.

**Sec. 44. Reports of common carriers, railroad corporations and street railroad corporations.**—Every common carrier, railroad corporation and street railroad corporation shall file an annual report with the commission, verified by the oath of the president, treasurer, general manager or receiver, if any, of such corporation, or by the person required to file the same. The verification shall be made by said official holding office at the time of the filing of the said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The commission shall prescribe the form of such reports and the character of the information to be contained therein, and may from time to time make such changes and such conditions in regard to form and contents thereof as it may deem proper, and on or before June thirtieth in each year shall furnish a blank form for such annual reports to every such corporation and person. The contents of such report and the form thereof shall conform in the case of railroad corporations as nearly as may be to that required of common carriers under the provisions of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and

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the acts amendatory thereof and supplementary thereto. The commission may require such report to contain information in relation to rates or regulations concerning fares or freights, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within this state. When the report of any such corporation or person is defective, or believed to be erroneous, the commission shall notify the corporation or person to amend the same within a time prescribed by the commission. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the commission. The commission may also require such corporations and persons to file periodic reports in the form, covering the period and at the time prescribed by the commission. The commission may require of any such corporation or person specific answers to questions upon which the commission may need information. The annual report required to be filed by a common carrier, railroad or street railroad corporation shall be so filed on or before the thirtieth day of September in each year. The commission may extend the time for making and filing such report for a period not exceeding sixty days. If such corporation or person shall fail to make and file the annual report within the time above specified or within the time as extended by the commission, or shall fail to amend such report within such reasonable time as may be prescribed by the commission, or shall fail to make specific answer to any question, or shall fail to make the periodic reports when required by the commission as herein provided, within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation or person shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such annual report, amendment, answer or periodic report. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. (Laws 1913, p. 581.)

For matters relating to:
Publication and filing of tariffs, see Sec. 29.
Changes in tariffs, notice required, see Sec. 31.
Concurrence in joint tariffs, see Sec. 32.
Accidents, see Sec. 45.
Uniform system of accounts, see Sec. 52.
Memoranda of traffic movement, see Sec. 52.
Depreciation account, see Sec. 61.
Similar provisions, see Secs. 69-6, 69-7, 91-1.

The Interstate Commerce Commission's state commission's form for annual reports of steam railroads, electric railways, express companies and sleeping car companies has been adopted by this Commission.

**Sec. 45. Investigation of accidents.**—The commission shall investigate the cause of all accidents on any railroad or street railroad within this state which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to the

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commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within this state in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice. (Laws 1913, p. 582.)

Regulations governing the reporting of railroad and street railroad accidents (G. O. No. 3, Cir. No. 7) have been adopted. Reports on investigations of accidents (1 Mo. P. S. C., Misc. 479).

**Sec. 46. Investigations by commission.**—1. The commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission shall make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order or decision of the commission. (Laws 1913, p. 582.)

For matters relating to:
Similar provisions, see Secs. 81, 92-1.
Consult specific sections.

2. Complaints may be made to the commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order or decision of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise, order or decision charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action on the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify. (Laws 1913, p. 582.)

For matters relating to:
Complaints, how made, see Secs. 107, 108.
Hearings, how conducted, see Sec. 109.
Rehearing before Commission, see Sec. 110.
Similar provisions, see Secs. 82, 92-2.

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3. Whenever the commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section, it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require. (Laws 1913, p. 583.)

**Sec. 47. Rates and service to be fixed by commission.**—1. Whenever the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad corporation or street railroad corporation for the transportation of persons or property within the state, or that the regulations or practices of such common carrier, railroad corporation or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of any provisions of law, or that the maximum rates, fares or charges, chargeable by any such common carrier, railroad corporation or street railroad corporation are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the commission shall with due regard among other things to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed, notwithstanding that a higher rate, fare or charge has been heretofore authorized by statute, and shall fix the same by order to be served upon all common carriers, railroad corporations or street railroad corporations by whom such rates, fares and charges are thereafter to be observed. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad corporation or street railroad corporation for excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under twelve years of age, or any other form of reduced rate tickets for the transportation of persons within the state, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more within the state, or that the regulations or practices of such common carrier, railroad corporation or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of any provision of law, or that the maximum rates, fares or charges collected or charged for any of such forms of reduced fare passenger transportation tickets by any

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such common carrier, railroad corporation or street railroad corporation are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, and upon investigation, that the sale of any form or forms of reduced fare passenger ticket heretofore sold or used upon any railroad or street railroad within the state of Missouri, the use or sale of which ticket or tickets has been discontinued within five years prior to the time this act takes effect, will be just and reasonable and not in violation of any provision of this act or other provision of law, the commission shall, with due regard, among other things to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for such mileage, excursion, school or family commutation, half fare or any other form of reduced fare tickets for the transportation of persons, or joint interchangeable mileage tickets with special privileges as aforesaid, and shall order the sale and use thereof to be restored, of any of the kinds of tickets herein specified or any other form of reduced rate ticket for the transportation of persons within the state, upon any railroad or street railroad within this state, upon which railroad or street railroad any such form of ticket or tickets for the transportation of persons within the state, have, within five years prior to the time this act takes effect, been sold or used, and shall determine and prescribe the reasonable and just rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for any such form of ticket or tickets for the transportation of persons within this state, all of which acts fixing such rates, fares and charges or requiring the restoration of, sale and use of any of such forms of ticket or tickets, shall be by order to be served upon all common carriers, railroad corporations and street railroad corporations by whom such rates, fares and charges or restoration of, sale or use of, such ticket or tickets are thereafter to be observed. (Laws 1913, p. 583.)

For matters relating to:
- Definitions, see Sec. 2.
- Rates in general, see Secs. 27, 43.
- Publication and filing of tariff schedules, see Sec. 29.
- Duty to furnish rates on request, see Sec. 30.
- Changes in tariffs, notice required, see Sec. 31.
- Concurrences in joint tariffs, see Sec. 32.
- Discrimination, see Secs. 33, 36.
- Deviation from tariff prohibited, see Sec. 35-1.
- Free transportation prohibited, exceptions, see Sec. 35-2.
- Interchange of free or reduced transportation, see Sec. 35-3.
- Power over commutation, mileage, round trip and reduced passenger rates, see Sec. 35-4.
- Connecting carriers, see Secs. 37, 47-3, 47-6.
- Reparation, see Sec. 43.
- Street railroad transfers, see Sec. 47-5.
- Transfers, see Sec. 47-5.
- Power of Commission to stay increased rates, see Sec. 48.

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**Power of Commission to determine value, see Secs. 60, 62.**
**Power over interstate rates, see Sec. 66, 138.**
**Commission to fix units of service, see Sec. 126.**
**Similar provisions, see Secs. 69-5, 82, 93-1.**

IN GENERAL. Section constitutional (270 Mo. 547, 194 S. W. 287). Section construed (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). United States Supreme Court decisions holding profitableness of intrastate rates as a whole not to justify an individual non-compensatory rate binding (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). A federal court may retain jurisdiction over injunction proceedings dismissed without prejudice for the purpose of collecting and disbursing excess charges paid and appoint a master for that purpose (210 Fed. 902). Constitutional freeholders charter provisions and ordinances regulating rates, etc., of public utilities are invalid when in conflict herewith (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752). An order with reference to a specific rate not entered where to do so would prevent future adjustments in similar rates, but tariffs should be amended to conform with the opinion (4 Mo. P. S. C. 223). Proper method for correction of unreasonable rates is filing of application to that end (2 Mo. P. S. C. 614). Non-confiscatory rates may be lower than just and reasonable rates (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). The same margin of profit need not be made on all rates (4 Mo. P. S. C. 1), and lower rates for shipments moving under limited liability than those moving under common law liability are permissible (193 Mo. App. 425, 185 S. W. 1154). Statutory requirements for 'phones in stations do not authorize free service (C. R. No. 12, July 31, 1914).

JURISDICTION. See also Sec. 16. The legislature may delegate authority to determine just and reasonable railroad rates (259 Mo. 704, 168 S. W. 1156, 270 Mo. 547, 194 S. W. 287), and this Commission acts under such authority in determining rates (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). The Commission is authorized to raise rates above prior statutory maximums (259 Mo. 704, 168 S. W. 1156; 270 Mo. 547, 194 S. W. 287; 3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594; and see 1 Mo. P. S. C. 594). Commutation tickets at reduced rates have received constitutional recognition (2 Mo. P. S. C. 67), and the Commission has regulatory power over such tickets (Ibid.; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), and the sale of round-trip tickets, mileage books and joint mileage books at reduced rates (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594).

ELEMENTS CONSIDERED IN DETERMINING REASONABLENESS. Rates are presumed to be reasonable (4 Mo. P. S. C. 1). Sufficiency of evidence to set aside Legislative-made rates (1 Mo. P. S. C. 312; 3 Mo. P. S. C. 1; 3 Mo. P. S. C. 75; 265 Mo. 399, 178 S. W. 55, affirming 1 Mo. P. S. C. 594). Shipments having the essential attributes of interstate commerce are subject to interstate rates, irrespective of a common control, management or arrangement for continuous carriage by the connecting carriers (268 Mo. 109, 186 S. W. 703, reversing 1 Mo. P. S. C. 212), and interstate rates have been held applicable on shipments of ties to a hold yard intended for shipment outside the state (Ibid.), but shipments from one point to another within the state, although later, under direction of a third party, moved outside the state (269 Mo. 63, 189 S. W. 377, P. U. R. 1917 D, 215; affirming 1 Mo. P. S. C. 600) or held on a hold track within another state for the convenience of the carrier (Ibid.), take the intrastate rate. Rerouting of passenger train (4 Mo. P. S. C. 111) or setting out of a passenger coach while a train crosses into another state and returns (Ibid.) that intrastate rate may apply found unreasonable. In passing upon the reasonableness of railroad rates the following questions have received consideration: stimulation of business conditions, acuteness of general financial conditions, past financial mismanagement (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), reasonable operating expenses (3 Mo. P. S. C. 301), increased cost per ton mile of short haul traffic over long haul traffic, apportionment of expenses between interstate and intrastate traffic, changing conditions and circumstances, the uniformity of a schedule for competitive railroads having varying costs, the greater return to some than to other carriers (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), the unhampered movement of the commodities in question (3 Mo. P. S. C. 301), effect of commercial necessity upon readjustments of shipment charges, cancellation of concentration privileges, storage-in-transit privileges (2 Mo. P. S. C. 614), and a lower rate via another line (1 Mo. P. S. C. 303). Transit privileges, milling-in-transit, are connected with and form part of the rates (1 Mo. P. S. C. 312), but their discontinuance is not estopped by reason of investments made in reliance of their continuance (Ibid.) A general increase in all rail road intrastaterates is not granted in absence of proper valuation of intrastate property (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), and although a comparison of rates is helpful in distributing burden of transportation (Ibid.), lack of similarity between street cars and agricultural implements, and flour or grain, renders a comparison of their rates of little value (3 Mo. P. S. C. 332). Absent a change in conditions, carriers may not change rates quoted to manufacturers and relied upon in making investments without changing the rates to competitors at other points (4 Mo. P. S. C. 223). Naming of specific rates from manufacturing points to primary markets estops making rates upon similar traffic from other points upon a comparison with class rates in effect (4 Mo. P. S. C. 223).

PASSENGER. Passenger charges should not exceed maximum rate for actual transportation (3 Mo. P. S. C. 345). Inadequate passenger rates of 2 cents per mile have been

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increased to 2½ cents one way and 2¼ cents round trip, upon condition that 500-mile mileage books and 1000-mile interchangeable mileage books be sold at 2 cents a mile (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), and to 3 cents upon condition that round trip tickets at 10 per cent reduction and bearer and coupon mileage books at 2½ cents a mile be sold (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), with a minimum rate of 5 cents per passenger (Ibid.; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), and free carriage of children under five, and half-fare charges for children between five and twelve (Ibid.), and an excess charge of 10 cents for passengers paying fare on train, having had ample opportunity for purchase of ticket, provided excess is refunded upon presentation of receipt (Ibid.; C. R. No. 9, Sept. 10, 1913). Fractions of one-half mile or over to be considered a mile and fractions less than one-half mile to be dropped in computing passenger fares (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), which fares, when not ending in five or naught, permit of charging nearest sum so ending (Ibid.). Under evidence introduced an interstate passenger fare of 3 cents not considered discriminatory upon comparison with an intrastate fare of 2 cents (31 I. C. C. 532). Commutation tickets defined (2 Mo. P. S. C. 67). Commutation tickets have been ordered issued on an interurban railroad although the utility was not earning a full return (2 Mo. P. S. C. 67), and by a steam railroad in connection with regular tickets yielding, based on a three months' test, passenger train revenue of $12,640 at an operating expense of $8,448 (2 Mo. P. S. C. 464).

FREIGHT. Primary factors entering into freight rates mentioned (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). Ascertainment of just first-class rate and basing other classes upon given percentage thereof proper method of formulating railroad class rates (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), but when the movement of an article reaches a large volume the class rate applicable should be superseded by a commodity rate (4 Mo. P. S. C. 87) and shipments of drain tile have been held entitled to commodity rates (Ibid.) Freight rates made for the purpose of permitting competition not considered in testing rates where complainant enjoys most favorable rate (3 Mo. P. S. C. 332). Fractions of a cent, one to five-tenths dropped and six to nine-tenths called one in computation of freight charges (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594; 3 Mo. P. S. C. 301). Unless shipper loads a car in excess of carrying capacity of equipment ordered, he is entitled to the minimum weight applicable on equipment ordered (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594; 3 Mo. P. S. C. 301). Certain arbitraries over Railroad and Warehouse Commission's freight schedule "B" on class and commodity rates allowed (3 Mo. P. S. C. 584). Rules providing for the return, storage, sale or destruction of shipments of explosives not promptly removed from the carrier's premises approved (4 Mo. P. S. C. 595; 4 Mo. P. S. C. 645). General freight rates, in cents per hundred pounds, based on distances of five miles, prescribed (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). Just and reasonable rates on shipments of coal (4 Mo. P. S. C. 1; 4 Mo. P. S. C. 553; 4 Mo. P. S. C. 674) from Lewis and Calhoun to Sedalia, upon a comparison with other rates (1 Mo. P. S. C. 65), from Richmond to St. Joseph (1 Mo. P. S. C. 303)—structural steel between St. Louis and Kansas City (4 Mo. P. S. C. 47), boots and shoes l. c. l.—36 cents per hundred—(4 Mo. P. S. C. 223), drain tile—1 cent per hundred pounds above a reasonable brick rate—(4 Mo. P. S. C. 87), cull and windfall apples, carloads, from within 150 miles to Kansas City (1 Mo. P. S. C. 679)—lower than rates on commercial or marketable apples—(Ibid.), shoes, clothing, brooms, harness, saddlery, pipes, hay, apples, agricultural implements, flax tow, rails, fastenings, etc., broom corn, and minimum weight on grain (3 Mo. P. S. C. 350) determined; together with advances in minimum weight on coke, rates on roofing material, slating, paper, felt, tar, etc., and sand (3 Mo. P. S. C. 350), and classification of grain bags so as to partake of return empty ratings (3 Mo. P. S. C. 366). An additional charge of $1.00 on shipments of watermelons, cantaloupes or other vinous or citrous fruits loaded at stations not having an agent found proper (C. R. No. 6, September 10, 1916). Sections 3126, 3127 and 3182, R. S. 1909, provide mixed carload rates for different kinds of live stock, grain or other articles provided with carload rating, applying the highest carload rate taken by any commodity in the mixture to such shipments (C. R. No. 14, March 2, 1916, amended by C. R. No. 15, Sept. 25, 1917, canceling C. R. No. 13, March 2, 1916). A switching charge in addition to the road charge for service over an industry track, a part of the railway's terminal system, is not proper (Mound City M. & E. Co. v. Chicago, B. & Q. R. R., Aug. 27, 1917). Sections 3122 and 3124, R. S. 1909, provide for the privilege of peddling perishable fruits, watermelons, cantaloupes, strawberries and blackberries and the transportation of caretakers on carload shipments at the regular freight charges for shipments not demanding such privileges, subject to an additional charge for stop-over privileges at points other than termini (C. R. No. 16, Sept. 25, 1917).

DEMURRAGE. Exaction of charges for track storage in addition to legal demurrage rates by railroads found unjustified (265 Mo. 399, 178 S. W. 55, affirming 1 Mo. P. S. C. 594), as demurrage charges embrace charges for team track storage (1 Mo. P. S. C. 594), but additional temporary demurrage charges have been permitted for relief of a serious car shortage (4 Mo. P. S. C. 616; 4 Mo. P. S. C. 643), and higher than statutory demurrage charges on

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refrigerator and other fully insulated cars (3 Mo. P. S. C. 329) and on shipments of explosives (4 Mo. P. S. C. 595; 4 Mo. P. S. C. 645) found justified. Application for increase of demurrage rates not sustained (4 Mo. P. S. C. 59).

BAGGAGE. Sections 3234, 3236 and 3237, R. S. Mo. 1909, with reference to baggage rates, construed (C. R. No. 7, September 10, 1913). Free transportation of 150 pounds of baggage with each adult and 75 pounds with each half-fare ticket (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594) with excess baggage rates of 15% of the 2½ cent passenger fare per 100 pounds (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594) found reasonable. A lesser charge for storage of baggage of traveling salesmen on certain days than to others is unreasonable (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005, reversing 3 Mo. P. S. C. 466, P. U. R. 1916 C, 182). A general order fixing the computation of free time on storage of all baggage, entered upon a complaint relative to storage of baggage of traveling men, is not to be sustained because it is broader than the issues raised (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005, reversing 3 Mo. P. S. C. 466, P. U. R. 1916 C, 182).

RETURN. The value of property and the amount of return are important facts in passing upon reasonableness of rates (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594). A reasonable average return (2 Mo. P. S. C. 51), including the necessity for making reservations for surplus and contingencies, is to receive consideration in prescribing reasonable rates (2 Mo. P. S. C. 67). Net earnings were approximated from available figures for missing period of year (2 Mo. P. S. C. 67). Abnormal operating expenses incurred in a given year are to be distributed over a greater period in determining annual operating expenses in a rate inquiry (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Interest is properly treated as part of the return and not as an operating expense (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607) and is not to be deducted in computing the return (4 Mo. P. S. C. 695). The principle that railroads are entitled to earn a fair return on an individual commodity constituting an appreciable volume of traffic appears reasonable (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594), and carload freight rates yielding 4.06 per cent (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), and passenger rates yielding 0.46 per cent have been held inadequate (Ibid.); whereas less than carload freight rates yielding 15.89 per cent (Ibid.), and carload class rates applicable to but 3.25 per cent of total tonnage (Ibid.) have been found amply sufficient. Apportionments of value of property, expenses of and return from operation of railroads between state and interstate (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594)—on net ton mile (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607) or gross revenue theory, plus a percentage for intrastate revenue (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594)—and passenger and freight traffic (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594)—on gross ton mile theory (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607) or passenger miles for passenger and ton miles for freight traffic (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594)—carload and less-than-carload (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A 594), and "line" (Ibid.)—on engine-ton mile basis (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594) or gross ton mile basis with an assignment of empty cars to intended traffic (Ibid.)—and "terminal" (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607; 3 Mo. P. S. C. 75, P. U. R. 1916 A, 594)—on number of passengers handled (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594) or number of tons handled basis (Ibid.)—have been discussed; with observations that expenses incurred in and property used solely for one class of traffic are subject to direct allocation (Ibid.); that expenses of handling freight until loaded in and after unloaded from car are assignable to "terminal" and not "line" (Ibid.); that undue assignments of interstate railroad expenses to terminals unduly burdens shipments originating within the state (Ibid.); that apportionment of value between interstate and intrastate service and passenger and freight service is largely dependent on apportionment of expenses (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607); that conditions are not sufficiently similar on different interstate railroads to justify the application of a test on one to approximate apportionments on another (3 Mo. P. S. C. 75, P. U. R. 1916 A 594); and that it is preferable to carve out the state portion of interstate revenue from the system as a whole rather than divide the figure between the states (Ibid.)

2. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any such common carrier, railroad corporation or street railroad corporation in respect to transportation of persons or property within this state are unjust, unreasonable, unsafe, improper or inadequate, the commission shall determine the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service thereafter to be in force, to be observed and to be used in such transportation of persons and property and so fix and prescribe

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the same by order to be served upon every common carrier, railroad corporation and street railroad corporation to be bound thereby; and thereafter it shall be the duty of every common carrier, railroad corporation and street railroad corporation to observe and obey each and every requirement of every such order so served upon it, and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by all of its officers, agents and employees. (Laws 1913, p. 585.)

For matters relating to:
Definitions, see Sec. 2.
Service in general, see Secs. 27, 43.
Sidetrack and switch connections, see Sec. 28.
Discrimination, see Sec. 34.
Connecting carriers, see Secs. 37, 47-3, 47-4, 47-6.
Cars, car regulations, express packages, see Sec. 38.
Testing track scales, see Sec. 39.
Bills of lading, see Sec. 40.
Continuous carriage, see Sec. 41.
Equipment and facilities, see Sec. 49.
Stations and stops, see Sec. 49.
Crossings, interlocking plants and block signals, see Sec. 50.
Additional trains or cars, time schedules, see Sec. 51.
Extensions, see Secs. 49, 53.
Duty with reference to interstate service, see Sec. 66.
Similar provisions, see Secs. 69-5, 93-2.

JURISDICTION. The initial determination of the reasonableness of rules and regulations is for the Commission and not the courts (3 Mo. P. S. C. 466, P. U. R. 1916 E, 182). Hours of service of tower-men is regulated by Federal legislation (2 Mo. P. S. C. 15). Constitutional freeholders charter provisions and ordinances regulating service, etc., of public utilities are invalid when in conflict herewith (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752).

DUTY TO RENDER. Common carriers are to furnish safe and adequate service and facilities (1 Mo. P. S. C. 278), including adequate local service (2 Mo. P. S. C. 430, P. U. R. 1915 D, 961), and in the manner contemplated by their charters and the laws (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542), which duty is paramount to the payment of dividends, and is not excused by unfortunate or improvident management (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), or contract provisions (1 Mo. P. S. C. 109; 1 Mo. P. S. C. 416); or by the mere fact that loss is incurred (4 Mo. P. S. C. 695), as each particular service need not be compensatory (1 Mo. P. S. C. 278). However, the limited use of passenger service has been held not to warrant improved service (3 Mo. P. S. C. 301), and an order directing establishment of freight service only has been entered (1 Mo. P. S. C. 416).

STATION AGENTS. Public convenience and necessity found to (1 Mo. P. S. C. 83; 2 Mo. P. S. C. 510) and not to (4 Mo. P. S. C. 325, P. U. R. 1917 B, 925) justify maintenance of a station agent.

STREET RAILWAYS. Additional through trips (4 Mo. P. S. C. 134), enforcement of municipal ordinances forbidding blockades of traffic (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013), conformation of car movement with passenger movement (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), maintenance of a specific schedule (4 Mo. P. S. C. 19), a given number of seats per hundred street railway passengers (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), operation of additional cars (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013), limiting movement of freight traffic to certain hours (4 Mo. P. S. C. 134), calling of streets (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013), excluding passengers from enclosure for motorman (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), and construction of street railway loops (Ibid.) and extensions (Ibid.) have been directed in furtherance of adequate street railway service; but the construction of double tracks (4 Mo. P. S. C. 134) or installation of an automatic signal system or longer passing tracks (2 Mo. P. S. C. 619, P. U. R. 1915 F, 1013) not improving the service have not been ordered. One man operation of street cars in sparsely settled districts approved (2 Mo. P. S. C. 619, P. U. R. 1916 A. 1013). See also Secs. 49, 51.

MISCELLANEOUS. Railroad tracks constructed primarily for private purposes held impressed with duty to render public service (1 Mo. P. S. C. 416). A shipper has the right to control the routing of his property (1 Mo. P. S. C. 600). Transportation of forty-nine grain bags in the fiftieth approved (3 Mo. P. S. C. 366). What constitutes a sufficient marking of sewer pipe, wall coping, drain tile or flue lining for shipment (1 Mo. P. S. C. 350).

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3. The commission shall have power to require, by order, any two or more common carriers, railroad corporations or street railroad corporations, whose lines, owned, operated, controlled or leased, form a continuous or connecting line of transportation or could be made to do so by the construction and maintenance of switch connection or interchange track at connecting points, or by transfer of property or passengers at connecting points, to establish through rates and joint rates, fares and charges for the transportation of passengers and property within the state as the commission may, by its order, designate; and in case such through routes and joint rates be not established by the common carriers, railroad corporations and street railroad corporations named in any such order within the time therein specified, the commission shall establish just and reasonable rates, fares and charges to be charged for such through transportation, and declare the portion thereof to which each common carrier, railroad corporation or street railroad corporation affected thereby shall be entitled and the manner in which the same shall be paid and secured; and the commission shall also have power in the same proceeding, or in a separate proceeding involving any rates, fares or charges, to prescribe joint rates and fares and charges as the maximum to be exacted for the transportation by them of passengers and property within the state, and to require such common carriers, railroad corporations and street railroad corporations affected thereby to make within a specified time an agreement between them as to the portion of such joint rates, fares or charges to which each of them shall be entitled; and in case such agreement be not so made within the time so specified the commission may declare by supplemental order the portion thereof to which each common carrier, railroad corporation or street railroad corporation affected thereby shall be entitled and the manner in which the same shall be paid and secured; such supplemental order shall take effect as part of the original order from the time such supplemental order shall become effective. (Laws 1913, p. 585.)

For matters relating to:
Concurrence in joint tariffs, see Sec. 32.
Discrimination, see Secs. 33, 37.
Transportation prohibited until publication of tariffs, see Sec. 35.
Deviation from tariffs prohibited, see Sec. 35.
Continuous carriage, see Sec. 41.
Power of Commission to stay increased rates, see Sec. 48.
Similar provision, see Sec. 93-3.

Rates on joint shipments (under Secs. 3241 and 3244, R. S. Mo. 1909) are to be based on mileage from point of origin and destination, plus switching charges of other than road lines at points of origin and destination (C. R. No. 8, September 10, 1913). Continuous line of railroad operated by one company under a lease considered a single line of railroad in determining its classification (3 Mo. P. S. C. 301). Establishment and maintenance of through routes and just and reasonable joint rates, less than a combination of locals, or joint rates based on continuous mileage plus specified arbitraries with a minimum charge of 25 cents per line involved (3 Mo. P. S. C. 281) are proper, but joint rates for shipments over more than one line must now be determined by agreement of carriers or by order of the Commission (1 Mo. P. S. C. 600), and in the absence of a joint rate, the separate rates apply (Ibid.). Division of joint rates primarily a matter of contract between carriers (3 Mo. P. S. C. 281). Existence of lower than local rate to junction point on through shipments does not prima facie establish unreasonableness of local rate (3 Mo. P. S. C. 332).

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Amounts in excess of local rate received by originating line upon division of through rates given consideration in compilation of revenue (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607).

4. If the commission shall be of the opinion that through cars for the transportation of property should be operated over the tracks of said common carriers, railroad corporations and street railroad corporations and that switch connection or interchange track at a connecting point, if not already existing, should be constructed and maintained by such common carriers, railroad corporations and street railroad corporations, to the end that property may be carried without change of cars, the commission shall have power after a hearing to require by order said common carriers, railroad corporations and street railroad corporations to receive from each other and transport for each other such cars over each other's tracks by way of such switch connection or interchange track, and if no such switch connection or interchange track exist to construct and maintain said switch connection or interchange track, and to make within a specified time not less than thirty days an agreement between them as to the terms of such receipt and transportation of cars, and if so required as to the division of the expense of such construction and maintenance of switch connection or interchange track; and in case such agreement be not so made within the time so specified, the commission shall after a hearing declare by supplemental order the terms and conditions upon which such cars shall be received and transported, and if so required the portion of such expense to which each common carrier or corporation affected thereby shall be entitled and the manner in which any sums of money to which any such common carrier or corporation is entitled shall be paid and secured, and such supplemental order shall take effect as part of the original order from the time such supplemental order shall become effective. Nothing in this subdivision shall be construed to require a through route between railroad corporations and street railroad corporations between points reached by such railroad corporations. (Laws 1913, p. 586.)

For matters relating to:
Sidetrack and switch connections, see Sec. 28.
Discrimination, see Secs. 34, 37.
Power of Commission to order changes, see Sec. 49.
Intersections of carriers, see Sec. 50.
Similar provision, see Sec. 93-3.

Public convenience and necessity found not to require connecting track between main line railroads (266 Mo. 333, 181 S. W. 61, P. U. R. 1916 B, 367, reversing 1 Mo. P. S. C. 396). Intersecting railroads may be required to maintain interchange track connections hereunder (1 Mo. P. S. C. 396), but lack of evidence showing profitableness thereof will preclude ordering same unless strongly shown to be a public convenience (Ibid.)

5. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the practices and service and the rules and regulations affecting the same of any street railroad corporation are, as to transportation upon the street surface railroads of said corporation by use of transfers given to each passenger paying one single fare, unjust and unreasonable either as to persons transported upon such street surface railroads or as to any such street railroad corporation,

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the commission shall determine and prescribe by order the just and reasonable service and rules and regulations affecting the same thereafter to be maintained and observed by said street railroad corporation (a) as to the distance over which a passenger shall by such transfer be transported by it upon said street surface railroads for a single fare; (b) the number of successive transfers to be given by it to a passenger paying one single fare for transportation over said street surface railroads; and (c) as to the prompt use by each passenger of such transfer given him for one single fare paid by him in making his continuous trip over said street surface railroads. And it shall thereupon be the duty of every such street railroad corporation to obey each requirement of every such order served upon it and to do everything necessary and proper in order to secure compliance with and observance of every such order by all of its officers, agents and employees. (Laws 1913, p. 586.)

Plan for issuance of transfers approved (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482) and confusion in their issuance corrected (4 Mo. P. S. C. 19). A street and interurban railroad issuing transfers over a portion of its route within a city is directed to issue transfers over the remaining portion of its line where the extended limit forms the natural rate-breaking point (3 Mo. P. S. C. 507, P. U. R. 1916 E, 47).

6. Until and except as the public service commission shall otherwise prescribe as to any street railroad corporation or corporations pursuant to the provisions of this act, every street surface railroad corporation entering into a contract with another such corporation shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall, upon demand, and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this subdivision the corporation so refusing shall forfeit one hundred dollars, fifty dollars of which shall be paid to the aggrieved party and fifty dollars paid to the public school fund of the state. The provisions of this subdivision shall only apply to railroads wholly within the limits of any one incorporated city or village. (Laws 1913, p. 587.)

**Sec. 48. Power of commission to stay increased rates.**—Whenever there shall be filed with the commission by any common carrier any schedule stating a new individual or joint rate, fare or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint at once, and if it so orders without answer or other

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formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, charge, classification, regulation or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, fare, charge, classification, regulation or practice, would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, fare, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation or practice had become effective: *Provided*, that if any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding six months. At any hearing involving a rate increased or a rate sought to be increased after the passage of this act, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the common carrier, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. (Laws 1913, p. 587.)

For matters relating to:
Filing and publication of tariffs, see Sec. 29.
Changes in tariffs, notice required, see Sec. 31.
Connecting carriers, see Secs. 32, 37, 47.
Discrimination, see Sec. 33.
Power of Commission over rates in general, see Secs. 27, 43.
Power of Commission to determine just and reasonable rates, see Sec. 47.
Duty with reference to interstate rates, see Sec. 66.
Burden of proof upon party averse to Commission, see Sec. 124.
Similar provisions, see Secs. 70, 94.

Words are to be given their plain effect in the construction of tariffs (2 Mo. P. S. C. 518) and apparent discrepancies in schedules are to be corrected to clearly designate the fare charged (1 Mo. P. S. C. 287). The publication and filing of rates with the Commission does not impart validity to unlawful charges (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109) or justify the exaction of higher than statutory maximum rates (3 Mo. P. S. C. 378) or demurrage charges (1 Mo. P. S. C. 594); as tariffs seeking to increase rates above statutory maximums can only be filed as exhibits of proposed rates not to be effective until after granting of authority (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594; and see 1 Mo. P. S. C. 595). Burden of proof justifying increased rates is not met by a showing of little use or that an increase in other rates may arise therefrom (4 Mo. P. S. C. 537, P. U. R. 1917 C, 45); that the increase will avoid discrimination where a dissimilarity of conditions is not shown (4 Mo. P. S. C. 549, P. U. R. 1917 C, 39); that an absence of business between certain points exists (3 Mo. P. S. C. 363), as well as failure to show a change in conditions affecting rates made to encourage factories at interior points (3 Mo. P. S. C. 350), or upon an admission that the reasonableness of the proposed rates cannot be defended within themselves (4 Mo. P. S. C. 7), although the Commission has been impressed, upon comparison, that a higher rate might be justified (3 Mo. P. S. C. 581). Withdrawal of requested advances in rates permitted that volume of suspension matter may be relieved (3 Mo. P. S. C. 350). Order vacating suspension of certain railroad rates entered upon advice that no objections existed withdrawn upon proof that all interested parties had not been heard (3 Mo. P. S. C.

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350). Determination of reasonableness of rates not undertaken in suspension proceedings (2 Mo. P. S. C. 614).

**Sec. 49. Power of commission to order repairs or changes.**—If in the judgment of the commission, additional tracks, switches, terminals or terminal facilities, stations, motive power, or any other property, construction, apparatus, equipment, facilities or device for use by any common carrier, railroad corporation or street railroad corporation in or in connection with the transportation of passengers or property ought reasonably to be provided, or any repairs or improvements to or changes in any thereof in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for the transportation of passengers or property, the commission shall, after a hearing, either on its own motion or after complaint, make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every common carrier, railroad corporation and street railroad corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of the commission served upon it. If any repairs, improvements, changes or additions which the commission has determined to order require joint action by two or more of said corporations, the commission shall, before entry and service of order, notify the said corporations that such repairs, improvements, changes or additions will be required and that the same shall be made at their joint cost, and thereupon the said corporations shall have thirty days or such longer time as the commission may grant within which to agree upon the part or division of cost of such repairs, improvements, changes or additions which each shall bear. If at the expiration of such time such corporations shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of such repairs, improvements, changes or additions, the commission shall have authority, after further hearing, to fix in its order the proportion of such cost or expense to be borne by each corporation and the manner in which the same shall be paid and secured. (Laws 1913, p. 588.)

For matters relating to:
Equipment and facilities in general, see Secs. 27, 43, 47-2.
Sidetracks and switches, see Sec. 28.
Discrimination, see Sec. 34.
Connecting carriers, see Sec. 37, 47-4, 47-6.
Distribution of cars, see Sec. 38.
Testing track scales, see Sec. 39.
Agents, see Sec. 47-2.
Interchange tracks, see Sec. 47-4.
Crossings (viaducts, subways, etc.), interlocking plants, block signals, see Sec. 50.
Additional trains or cars, see Sec. 51.
Public health and safety, see Sec. 116.
Similar provisions, see Secs. 69-2, 69-5, 95.

IN GENERAL. Constitutional freeholders charter provisions and ordinances, regulating construction, etc., of public utilities are invalid when in conflict herewith (270 Mo.

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429, 192 S. W. 958, P. U. R. 1917 D, 752). This section should receive a liberal construction (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004).

JURISDICTION. The Commission may require a railroad to operate sleeping cars (269 Mo. 634, 192 S. W. 86, P. U. R. 1917 C, 971), maintain track scales (4 Mo. P. S. C. 285), or terminal facilities at stockyards for the handling of live stock (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661), or provide adequate sites for grain elevators (3 Mo. P. S. C. 529), or direct it to apply to the municipal authorities and take essential legal steps to obtain necessary franchises for the erection of a passenger station (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), or compel the construction and maintenance, repair or improvement of railroad depots and stations (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004; 1 Mo. P. S. C. 334). The Commission may not, in view of Art. 12, Sec. 20, Const., direct a street railroad to apply to the proper municipal authorities for the necessary franchises to construct and operate its system in new territory, but may order constructions of sidetracks, etc., incidental to the operation of the main line (—— Mo. ——, 192 S. W. 958, P. U. R. 1917 D, 752). Constitution, Art. 12, Sec. 20, applies to the power of the Commission to order a street railroad extension (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752) as the word "construct" means to build, whether by initial location or extension (Ibid.) and "operation" means to use for the purposes of the construction (Ibid.) Sanitary rules and regulations for the operation of street cars are subject to the Commission's jurisdiction (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482). *Quare* as to Commission's authority to substitute temporary stage or bus service for street railway service or temporary operation of cars over other streets than those for which authority has been granted (1 Mo. P. S. C. 291). The adequacy of a proposed station site rests with the Commission (2 Mo. P. S. C. 289, P. U. R. 1917 C, 865). Consult also Sec. 16.

STATIONS AND STOPS. RAILROADS. It is the duty of railroads to stop one train daily at towns having 200 inhabitants (1 Mo. P. S. C. 389), but public convenience and necessity found not to justify stopping of an additional fast local train on flag thereat (4 Mo. P. S. C. 262). Aid in procurement of rights of way was not made the basis for certain railroad train service (2 Mo. P. S. C. 430, P. U. R. 1915 D, 961). The test in determining reasonableness of requiring interstate train to stop at stations is adequacy of existing local service (1 Mo. P. S. C. 624); and the public convenience and necessity of a nearby city (4 Mo. P. S. C. 317), of a county seat having 2,500 inhabitants (4 Mo. P. S. C. 230, P. U. R. 1917 B, 417), of parties served at a second station within a city (3 Mo. P. S. C. 345), and of a village of 300 (2 Mo. P. S. C. 510) has been found sufficient to require the stopping of an interstate train, including the routing of a train around a loop (2 Mo. P. S. C. 430, P. U. R. 1915 D, 961), as well as flag stops (2 Mo. P. S. C. 525); whereas operating conditions (3 Mo. P. S. C. 345), existence of other stations within the city (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), or adequate local train service (1 Mo. P. S. C. 624) has precluded such an order. Carriers should be permitted to operate through service free from delays occasioned by local service where local service is adequate (1 Mo. P. S. C. 624), but the effect of additional stops upon an interstate train are considered only when advisability of making such stops is presented for determination (2 Mo. P. S. C. 510). Other factors considered in determining adequate local train service set forth (4 Mo. P. S. C. 230, P. U. R. 1917 B, 417; 2 Mo. P. S. C. 430, P. U. R. 1915 D, 961; 2 Mo. P. S. C. 510). Operating conditions preventing a stop at the station without a back down movement, a stop 400 to 500 feet from the station is approved in a village of 700 (2 Mo. P. S. C. 468) as well as stopping on a siding for passage of opposing train and later discharging passengers (Ibid.) Operation of certain trains to and from a given terminus found necessary (4 Mo. P. S. C. 695).

INTERURBAN RAILWAYS. In passing upon the public convenience and necessity of interurban railway stops or stations, consideration has been given advantages due to short distance and quick and convenient transportation of through traffic (1 Mo. P. S. C. 205; 1 Mo. P. S. C. 370; 2 Mo. P. S. C. 94), the safety of operation, limit of vision and adequacy of existing service (1 Mo. P. S. C. 224), the number of persons who cannot be conveniently served at an existing station and the security of the public (1 Mo. P. S. C. 51), and the distance a passenger has to travel to reach a station after reaching the line of railroad (2 Mo. P. S. C. 94). Greater local convenience has been held to outweigh the greater danger attending the location of an existing station on another site (3 Mo. P. S. C. 573), whereas the establishment of a station 2,000 feet from an existing station has been found unnecessary (2 Mo. P. S. C. 94). A six months test considered necessary to determine contentions of two nearby towns as to justness of claim for stop of limited interurban train at one (3 Mo. P. S. C. 568).

STREET RAILWAY. Pendency of proceedings for elimination of street railway stops before the Commission does not preclude action by proper municipal authority (4 Mo. P. S. C. 499). It is necessary to investigate fully each proposed elimination of street railway stops (4 Mo. P. S. C. 499) and a test for that purpose has been ordered (Ibid.), their elimination not being justified on the ground that applicant believes an ordinance goes further than is prudent, necessary or convenient (Ibid.), but mid-block stops in the business district of a city of 19,000 are unnecessary (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013). Additional street railway stops ordered upon showing that the proposed stops would serve a greater number conveniently than existing stops (4 Mo. P. S. C. 252). See also Sec. 47-2.



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BUILDINGS, ETC. Carriers using the tracks of others under contracts precluding the transaction of local business thereover not required to join in construction, maintenance or operation of local station facilities (1 Mo. P. S. C. 83). Expenditures for depots should be wisely made for modern buildings of adequate size (1 Mo. P. S. C. 334) upon convenient sites (1 Mo. P. S. C. 109), but given an adequate site, the railroad will not be compelled to use another (2 Mo. P. S. C. 289, P. U. R. 1915 C, 865), even though the proposed site be the better where there is an existing station (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004). However, public convenience and necessity, expenses and dangers attending may cause the selection of one site for a station in preference to another (1 Mo. P. S. C. 464). Reasonable station facilities are required irrespective of profitableness to carrier of point in question (4 Mo. P. S. C. 325, P. U. R. 1917 B, 925), but expenditure of a substantial sum for an additional passenger station is not justified on general allegations that depot concessions will supply the cost of maintenance (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), nor is the erection and maintenance of a union station with no prospect of increased revenue required of four railroads intersecting at grade in a city furnished individually adequate station facilities (2 Mo. P. S. C. 160, P. U. R. 1915 C, 72). To justify an additional station in a city having other stations, a substantial number of persons and industries, not receiving convenient service, should be served, the public safety not endangered, property rights given due observance and convenience of interstate passengers not ignored (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), and only that portion of the population not receiving convenient service at existing stations is to be considered (Ibid.) Public convenience and necessity found to warrant the construction and maintenance of a joint station (1 Mo. P. S. C. 83), of a non-agency freight and passenger station (4 Mo. P. S. C. 325, P. U. R. 1917 B, 925), and of station buildings by an interurban railroad (4 Mo. P. S. C. 335). R. S. 1909, Secs. 3094, 3215, 3216 and 3222 have reference to the maintenance of depots at railroad grade intersections outside the corporate limits of cities only (2 Mo. P. S. C. 160, P. U. R. 1915 C, 72). Evidence held insufficient to sustain an order requiring the construction of a new depot, instead of repairing, improving and enlarging the existing one (—— Mo. ——, 196 S. W. 369, reversing and remanding 2 Mo. P. S. C. 249). Construction of chats platform at, but not a shelter to, stopping point of a passenger train some 400 to 500 feet from the station (2 Mo. P. S. C. 468) ordered. While the installation in depots of the telephone service of the company having the largest number of subscribers in the city constitutes compliance with statutory provisions (3 Mo. P. S. C. 426; 2 Mo. P. S. C. 157, P. U. R. 1915 A, 61), public convenience has been held to (3 Mo. P. S. C. 426) and not to (2 Mo. P. S. C. 157, P. U. R. 1915 A, 61) require the installation of a 'phone of each of two competing companies. The installation of a mutual telephone company's 'phone in a station not ordered (3 Mo. P. S. C. 549).

MISCELLANEOUS. RAILROADS. The loading and unloading of shipments constitute part of the obligation of carriage (4 Mo. P. S. C. 702), and it is the duty of railroads to construct and maintain switches and freight houses at towns having a population over 200 (1 Mo. P. S. C. 389), but this duty does not require the furnishing of storage space for goods intended for carriage but not offered for that purpose (3 Mo. P. S. C. 372; 3 Mo. P. S. C. 529). The construction of additional tracks and terminal facilities at stockyards (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661) and the removal of stockyards to the end of a team track, with provision for a twenty-foot roadway for relief of congestion in loading and unloading (2 Mo. P. S. C. 460) has been ordered; whereas failure to establish a demand (3 Mo. P. S. C. 301), as at a village having sidetrack facilities and situate one-half mile from reasonable accommodations (1 Mo. P. S. C. 389), precludes an order requiring stockyard facilities. The maintenance of track scales has been ordered upon a showing of public convenience and necessity therefor (4 Mo. P. S. C. 285; 4 Mo. P. S. C. 291). The obligation of a railroad to efficiently serve the public is not to be disregarded in satisfying a demand for a grain elevator on its right of way (3 Mo. P. S. C. 529), but where each of two proposed elevator sites on railroad property is adequate, the initial selection of the site rests with the railroad (Ibid.) Lack of definiteness as to location of a proposed switch track held to preclude a change in location (3 Mo. P. S. C. 372). Evidence insufficient to warrant discontinuance of sleeping car service (269 Mo. 634, 192 S. W. 86, P. U. R. 1917 C, 971; affirming 2 Mo. P. S. C. 646, P. U. R. 1916 B, 223). Forty-two acres considered adequate for station yards of a seventy mile railroad operating one train each way daily (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). A street of 50 to 60 ft. in width considered sufficient to accommodate travel to and from a station in city of 6,000 (2 Mo. P. S. C. 289, P. U. R. 1915 C, 865). In so far as "facilities as shall be safe and adequate" relate to headlights on switch engines of interstate carriers, it is superseded by the act of Congress of March 4, 1915, manifesting a purpose to regulate the proper equipment of interstate railroad locomotives (2 Mo. P. S. C. 560, P. U. R. 1915 F, 489, but see 242 U. S. 255).

STREET RAILWAYS. The necessity of the city as a whole is to be taken into consideration in the development of a street railway system (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), additions and extensions, although unprofitable where the fares as a whole are remunerative (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482) being made where necessary, but not by a utility barely making operating expenses (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013). Street railway extensions should be over the shortest route serving the greatest number to the

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greatest advantage (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), but easy grades, the demand for service and possibility of future growth (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1012) may render a longer route preferable, or existing conditions may not justify the extension (2 Mo. P. S. C. 98). Temporary rerouting of street cars, on account of expense and danger involved (4 Mo. P. S. C. 19; 4 Mo. P. S. C. 647) or substitution of bus service where time consumed is not generally lessened (1 Mo. P. S. C. 291) or construction of temporary tracks, on account of expense and delay (1 Mo. P. S. C. 291) found unnecessary. Reconstruction of street railway tracks to proceed as rapidly as possible where company is financially unable to proceed at once (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013). Questions dealing with heating, ventilation and crowded condition of street cars should be taken up in connection with the system as a whole (1 Mo. P. S. C. 291). Street railway passenger cars should be free from filth and rubbish, fumigated at least once a week, equipped with ventilating devices, thermometers, heaters and destination and route signs (2 Mo. P. S. C. 357, P. U. R. 1915 D 482), flat wheels and flanges causing unnecessary noise and jarring should be remedied (Ibid.) and provision should be made for inspection and report on their condition (Ibid.) Smoking on street cars should be prohibited except on three rear seats in mild weather (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482). The use of front doors of street cars as exits (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482; 2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013) and rear doors as entrances (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013) is to be encouraged. See also Sec. 47-2.

**Sec. 50. Power of commission to abolish or permit grade crossings.**—1. No public road, highway or street shall hereafter be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the commission: *Provided*, that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe. (Laws 1913, p. 589.)

2. The commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad and of a street by a railroad or *vice versa*, so far as applicable, and to alter or abolish any such crossing, and to require, where, in its judgment, it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the state, county, municipality or other public authority in interest. (Laws 1913, p. 589.)

For matters relating to:
Interchange tracks, see Sec. 47-4.
Interlocking plants, block signals, etc., see also Sec. 116.

IN GENERAL. Rules governing the construction, maintenance and operation of interlocking plants (G. O. No. 10, Cir. No. 22). In the matter of block signals, interlocking

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and train order statistics (G. O. No. 11, Cir. No. 23). Highway grade intersections with railroads have been approved (1 Mo. P. S. C. 114; 1 Mo. P. S. C. 370; 1 Mo. P. S. C. 394; 1 Mo. P. S. C. 412; 4 Mo. P. S. C. 265; 4 Mo. P. S. C. 597; 4 Mo. P. S. C. 606; 4 Mo. P. S. C. 682) and denied (2 Mo. P. S. C. 222; 3 Mo. P. S. C. 551, P. U. R. 1916 E, 56; 1 Mo. P. S. C. 375), on account of the danger involved (1 Mo. P. S. C. 375), the existence of crossings furnishing reasonable accommodations (2 Mo. P. S. C. 222; 1 Mo. P. S. C. 375), or the extraordinary vigilance required of motormen (3 Mo. P. S. C. 551, P. U. R. 1916 E, 56). The separation of grades at highway intersections with railroads have been approved (1 Mo. P. S. C. 699; 4 Mo. P. S. C. 573; 4 Mo. P. S. C. 101; 2 Mo. P. S. C. 454; 2 Mo. P. S. C. 471, P. U. R. 1915 F, 149) and considered unnecessary (4 Mo. P. S. C. 522, P. U. R. 1917 C, 42). The construction of an interlocker (4 Mo. P. S. C. 60; 4 Mo. P. S. C. 78; 4 Mo. P. S. C. 116) and crossing gates (1 Mo. P. S. C. 25) at railroad grade intersections have been ordered.

JURISDICTION. Neither the Commission's authority to apportion expenses hereunder (4 Mo. P. S. C. 573) nor the repeal of this section is affected by Laws 1913, p. 696 (4 Mo. P. S. C. 269, P. U. R. 1917 B, 315; 4 Mo. P. S. C. 275), but the Public Service Commission law does not affect a railroad's obligations incurred under a valid prior enacted ordinance to bear the expense of and construct a viaduct (262 Mo. 720, 174 S. W. 73. But see 1 Mo. P. S. C. 644; 2 Mo. P. S. C. 295, and 4 Mo. P. S. C. 296, with reference to obligation incurred by municipality). Exercise of authority hereunder is administrative (4 Mo. P. S. C. 116), and proceedings may be instituted by any person irrespective of direct damage to him (4 Mo. P. S. C. 573). The manner of intersection of highways with railroads is a matter of state concern (2 Mo. P. S. C. 471, P. U. R. 1915 F, 149), and this Commission has full authority over the intersection of railways with highways (1 Mo. P. S. C. 640, 4 Mo. P. S. C. 573), its consent being essential to construction (3 Mo. P. S. C. 551, P. U. R. 1916 E, 56). The exclusive control over municipal streets, vested in certain cities, is withdrawn hereby to the extent provided (4 Mo. P. S. C. 499; 2 Mo. P. S. C. 471, P. U. R. 1915 F, 149). The installation of protective devices at railroad grade crossings is subject to the Commission's jurisdiction (4 Mo. P. S. C. 78), as is the apportionment of expenses incurred (4 Mo. P. S. C. 573; 4 Mo. P. S. C. 269, P. U. R. 1917 B, 315; 4 Mo. P. S. C. 275); and this, irrespective of contract provisions (4 Mo. P. S. C. 116; 4 Mo. P. S. C. 296, P. U. R. 1917 B, 425; 2 Mo. P. S. C. 295; 1 Mo. P. S. C. 640), or institution of statutory proceedings for the establishment of the highway (4 Mo. P. S. C. 265). The Commission's jurisdiction extends over railroad and street intersections whether the grades were separated before or after the enactment of this law (4 Mo. P. S. C. 296, P. U. R 1917 B, 425; 1 Mo. P. S. C. 640) and is not withheld on the theory that it was invoked to condemn the railway right of way (3 Mo. P. S. C. 551, P. U. R. 1916 E, 56). The Commission's jurisdiction is not affected by agreements with respect thereto (4 Mo. P. S. C. 606), by the absence of power of eminent domain (2 Mo. P. S. C. 471, P. U. R. 1915 F, 149), by the failure to acquire the necessary right of way (4 Mo. P. S. C. 573; 4 Mo. P. S. C. 597) or prosecute condemnation proceedings (4 Mo. P. S. C. 692; 4 Mo. P. S. C. 269, P. U. R. 1917 B, 315), as approval of construction of high way across railroad may be had before or after statutory proceedings establishing highway are had (4 Mo. P. S. C. 269, P. U. R. 1917 B, 315), or by failure to obtain the consent of the railroad or receiver to the proposal (4 Mo. P. S. C. 573), nor is the determination whether a crossing is private or public a condition precedent (4 Mo. P. S. C. 682). The Commission is without authority to order installation of a private walk (4 Mo. P. S. C. 681) or a private farm crossing, where the safety of the public and employes or service to the public is not affected (1 Mo. P. S. C. 621), across railroad tracks, nor is it vested with jurisdiction to assess damages (4 Mo. P. S. C. 269, P. U. R. 1917 B, 315; 4 Mo. P. S. C. 275), or to pass upon legality of the delegation of state's police power hereunder (4 Mo. P. S. C. 269, P. U. R. 1917 B, 315. But see 1 Mo. P. S. C. 640, stating the Legislature may vest the Commission with authority over intersections of public highways with railroads).

POLICY OF COMMISSION. This section evinces a policy to prevent inconvenience and delay and to protect life, limb and property (1 Mo. P. S. C. 114; 3 Mo. P. S. C. 551, P. U. R. 1916 E, 56), and it is the policy of the Commission to promote the safety of the public by eliminating dangerous grade crossings so far as possible (1 Mo. P. S. C. 114; 1 Mo. P. S. C. 370; 1 Mo. P. S. C. 412).

SAFETY DEVICES. Crossbar or gate devices and flagmen (1 Mo. P. S. C. 114), installation of audible and visible signals (2 Mo. P. S. C. 172; 1 Mo. P. S. C. 412) and the vacation of streets and alleys (1 Mo. P. S. C. 114) have been made conditions to the granting of consent hereunder. Construction of a subway held in abeyance on account of straightened financial circumstances of utility and absence of immediate necessity (2 Mo. P. S. C. 471, P. U. R. 1915 F, 149). The statutory right of railroads to cross public highways is coupled with the statutory duty of restoring the highway to its former state (1 Mo. P. S. C. 640). Vertical clearances of 22 feet, 3 inches for overhead structures above railroad tracks considered ample (4 Mo. P. S. C. 278). Objections to narrowness of roadway of viaduct due to limited vision ordered remedied through lessening of the grades of the approaches (2 Mo. P. S. C. 295). New viaduct across railroad tracks (4 Mo. P. S. C. 278) or repair of the old

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(2 Mo. P. S. C. 295) ordered where viaduct found unsafe. The construction of retaining walls (2 Mo. P. S. C. 471, P. U. R. 1915 F, 149; 4 Mo. P. S. C. 338) and track changes (4 Mo. P. S. C. 338) have received consideration.

APPORTIONMENT. Apportionment of expenses of construction, operation and maintenance between interested utility and other interested party, based more or less upon portion of improvement within and without railroad right of way (4 Mo. P. S. C. 573; 4 Mo. P. S. C. 597; 4 Mo. P. S. C. 606); or otherwise when affected by individual characteristics (1 Mo. P. S. C. 412; 1 Mo. P. S. C. 699; 1 Mo. P. S. C. 640; 2 Mo. P. S. C. 295; 2 Mo. P. S. C. 454; 2 Mo. P. S. C. 471, P. U. R. 1915 F, 149; 4 Mo. P. S. C. 101; 4 Mo. P. S. C. 265; 4 Mo. P. S. C. 269, P. U. R. 1917 B, 315; 4 Mo. P. S. C. 275; 4 Mo. P. S. C. 296, P. U. R. 1917 B, 425; 4 Mo. P. S. C. 682), or, as between interested carriers, on the track basis (4 Mo. P. S. C. 338) have been made. The cost of construction, operation and maintenance of interlocking plants have been apportioned on the train basis (4 Mo. P. S. C. 78), with an arbitrary allowance for peculiar conditions (4 Mo. P. S. C. 60), irrespective of contract provisions covering subject matter (4 Mo. P. S. C. 116).

**Sec. 51. Power of commission to order changes in time schedules, running of additional cars and trains.**—If, in the judgment of the commission, any railroad corporation or street railroad corporation does not run trains enough or cars enough or possess or operate motive power enough, reasonably to accommodate the traffic, passenger and freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at reasonable or proper time having regard to safety, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall, after a hearing, either on its own motion or after complaint, have power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car or make any other suitable order that the commission may determine reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation. (Laws 1913, p. 590.)

For matters relating to:
Furnishing of cars, see Sec. 38.
Service in general, see Secs. 27, 43, 47-2.
Equipment and facilities, see Sec. 49.

ADDITIONAL TRAINS OR CARS. Commission will not unhesitatingly require additional passenger service entailing considerable loss where existing service is merely inconvenient (1 Mo. P. S. C. 278). The operation of an additional passenger train, upon test found to yield a return, ordered continued (2 Mo. P. S. C. 306), whereas continued service by a passenger train operated at a loss is not ordered (4 Mo. P. S. C. 810; 2 Mo. P. S. C. 89). The Commission is without authority to permit the discontinuance of Sunday passenger train service (4 Mo. P. S. C. 707). A bona fide test (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542) and consent to or action by the state is essential to voluntary abandonment of a branch line railroad (Ibid.) The mere fact that loss is incurred on branch line service does not render a Commission order therefor void (269 Mo. 634, 192 S. W. 86, P. U. R. 1917 C, 971), unless cost of operation so outweighs public benefits as to render continuance of service unreasonable (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542) or unduly impairs adequate service on the remainder of the system (Ibid.), but facts and circumstances must justify an order requiring operation of an abandoned portion of a railroad (Ibid.) Discontinuance of a passenger train (4 Mo. P. S. C. 707), without the substitution of motor car service (Ibid.), on a branch line has been permitted upon condition that Sunday passenger service be afforded, but restoration of service by the legal owner over an abandoned leased branch line railroad has been ordered for a test period (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542). For street railways see Secs. 47-2, 49.

TIME SCHEDULES. Proposed changes in time schedules should be preferable to existing ones (1 Mo. P. S. C. 232), such as to permit making a round trip between certain points daily (1 Mo. P. S. C. 278). Publication of time schedules ordered (4 Mo. P. S. C. 695).

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**Sec. 52. Uniform system of accounts; access to accounts, et cetera; forfeitures.**—The commission may, whenever it deems advisable, establish a system of accounts to be used by railroad and street railroad corporations or other common carriers which are subject to its supervision, or may classify the said corporations and other carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records and memoranda to be kept by such corporations, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same are to take effect. The system of accounts established by the commission and the forms of accounts, record and memoranda prescribed by it as provided above shall conform in the case of railroad corporations as nearly as may be to those from time to time established and prescribed by the interstate commerce commission under the provisions of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof or supplementary thereto. The commission shall at all times have access to all accounts, records and memoranda kept by railroad and street railroad corporations and by common carriers, and may designate any of its officers or employees, who shall thereupon have authority under the order of the commission to inspect and examine any and all accounts, records and memoranda kept by such corporations. The commission may, after hearing, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. Whenever the commission has prescribed the form of accounts, records and memoranda to be kept by such corporations it shall be unlawful for them to keep any other accounts, records or memoranda than those so prescribed, or those prescribed by or under the authority of the United States. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination except in so far as he may be directed by the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor. (Laws 1913, p. 590.)

For matters relating to:
Annual reports, see Sec. 44.
Depreciation account, see Sec. 61.
Similar provisions, see Secs. 69-4, 91-2.

The Interstate Commerce Commission's uniform system of accounts for electric railways, steam roads, express companies and sleeping car companies has been adopted by this Commission.

**Sec. 53. Franchises and privileges.**—1. No railroad corporation, street railroad corporation or common carrier shall henceforth begin the construction of a railroad or street railroad

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or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction: *Provided*, that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city or town within which it shall have heretofore lawfully commenced operations, or for extension into a territory either within or without a city or town, contiguous to such railroad or street railroad, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; *and provided further*, that if any such public utility, in constructing or extending its line, or system, shall interfere or be about to interfere with the operation of the line or system of any other such public utility, already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines or systems affected as to it may seem just and reasonable. (Laws 1913, p. 591.)

2. No such public utility of a class specified in subsection one (1) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege: *Provided*, that when the commission shall find, after hearing, that such public utility has heretofore begun actual construction work and is prosecuting such work, in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; *and provided further*, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state. (Laws 1913, p. 591.)

3. Before any certificate may issue, under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of the commission. Every applicant for a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that the applicant has received the required consent, franchise or permit of the proper county, city, municipal or other public authority. The commission shall have power, after hearing, to issue such certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated railroad or street railroad or extension thereof, or for the partial exercise only of said right or privilege, and may

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attach to the exercise of the rights granted by the certificate such terms and conditions as in its judgment the public convenience and necessity may require. If such public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after such public utility has obtained the contemplated franchise or permit. Upon the presentation to the commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the commission shall thereupon issue such certificate. Unless exercised within a period of two years from the grant thereof authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void. (Laws 1913, p. 592.)

For matters relating to:
Service in general, see Secs. 27, 43, 47.
Equipment and facilities, see Sec. 49.
Similar provisions, see Secs. 72, 96.

IN GENERAL. Construed (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544). The doctrine of former adjudication is not applicable in proceedings hereunder (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661). A street railway franchise and the consent of the local authorities are not affected by the invalidity of a provision separable therefrom and not the basis thereof (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544).

JURISDICTION. Commission may enforce franchise terms (1 Mo. P. S. C. 130; 2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004; 4 Mo. P. S. C. 381, P. U. R. 1917 B, 542)—not, however, franchises lost by nonusers (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752)—charters or public professional obligations through orders when public necessity therefor exists (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542), but is without authority to grant (2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013; 2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004) or compel local authorities to grant (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004) the necessary franchises for street railway extensions or the erection of passenger stations. Nor can it grant relief from burdensome street railway franchise provisions (4 Mo. P. S. C. 13), or, in view of Const., Art. 12, Sec. 20, direct a street railroad to apply to the proper municipal authorities for the necessary franchises to construct and operate a street railroad system or extension thereof (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752, reversing 2 Mo. P. S. C. 357, P. U. R. 1915 D, 482; contra railroads, 2 Mo. P. S. C. 619, P. U. R. 1916 A, 1013). The Commission's authority is not restricted by municipal charter provisions adopted by virtue of Const., Sec. 16, Art. IX (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544). Street railway franchise provisions for municipal profit sharing and ownership, unlimited and indefinite privileges, adequate extensions, street paving, right of forfeiture, and the consent of the abutting property owners are within the province of the local authorities to the exclusion of the Commission (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544), but the Commission may determine whether the terms and conditions harmonize with the state's public policy, are consistent with valid general laws of the state, the laws under which applicant is incorporated, whether applicant is willing and financially able to render reasonable and proper service and whether public convenience and necessity require the service (Ibid.) In proceedings for a certificate of public convenience and necessity the question of a conspiracy to evade the laws of the state in organizing a corporation (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661) or the fact of ownership of stock of applicant by a foreign corporation not subject to the jurisdiction of the state (Ibid.) is not properly before the Commission. See also Sec. 16.

CONDITIONS. Provisions herein seek to prevent duplication and wasteful competition (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544), and it is essential that "necessity" as well as "public convenience" exists (Ibid.), certificates being refused if present and future public convenience and necessity is not subserved (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661). Changing interstate shipments to state shipments through authority hereby conferred not warranted (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661). Construction of necessary tracks and terminal facilities at stockyards by a company increasing charges for service not deemed

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a public necessity, provided an existing company is able and disposed to render the service (2 Mo. P. S. C. 406, P. U. R. 1915 D, 661), but the certificate will go to a new company providing greatly improved service where the plan of the existing company is objectionable in contemplating construction across the state line (Ibid.) Failure of street railway to exercise rights for more than twenty years constitutes abandonment (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752).

**Sec. 54. Right to issue stocks, bonds and notes is subject to regulation by state.**—The power of railroad corporations, street railroad corporations and common carriers to issue stocks, and bonds, notes and other evidences of indebtedness and to create liens upon their property situated in this state is a special privilege, the right of supervision, regulation, restriction, and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe. (Laws 1913, p. 592.)

For matters relating to:
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 55.
Acquisition of stock in another company, see Sec. 56.
Power of Commission over issuance of securities, see Sec. 57.
Recording of Commission's certificate, see Sec. 58.
Stock dividends, see Sec. 58.
Security issues in general, see Sec. 59.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 73, 97.

The issuance of stock, bonds or notes (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 236) or the execution of a valid indenture of lease and conditional sale agreement (1 Mo. P. S. C. 29) against property in this state by a foreign carrier is subject to the approval of the Commission.

**Sec. 55. Transfer of franchises or stocks.**—No railroad corporation, street railroad corporation or common carrier shall hereafter sell, lease, assign, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its railroad or street railroad necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate such railroad or street railroad, franchise or permit, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this act, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section, shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property

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by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value. (Laws 1913, p. 592.)

For matters relating to:
Power of state, see Sec. 54.
Acquisition of stock in another company, see Sec. 56.
Power of Commission over issuance, see Sec. 57.
Recording of Commission's certificate, see Sec. 58.
Stock dividends, see Sec. 58.
Security issues in general, see Sec. 59.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 74-1, 98-1.

Approval of the Commission has been given to the following forms of agreement: mortgages (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 12; 1 Mo. P. S. C. 71; 1 Mo. P. S. C. 88; 1 Mo. P. S. C. 236; 3 Mo. P. S. C. 593; 4 Mo. P. S. C. 95; 4 Mo. P. S. C. 461), deeds of trust (1 Mo. P. S. C. 57), note agreements (3 Mo. P. S. C. 593), and conditional sale agreements (1 Mo. P. S. C. 40), or has been withheld pending future consideration (3 Mo. P. S. C. 664).

**Sec. 56. Sale of franchises or stocks.**—No railroad corporation, street railroad corporation, or electrical corporation, domestic or foreign, shall hereafter purchase or acquire, take or hold, any part of the capital stock of any railroad corporation or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state, unless authorized so to do by the commission; and save where stock shall be transferred or held for the purpose of collateral security, no stock corporation of any description, domestic or foreign, other than a railroad corporation, street railroad corporation, or electrical corporation, shall, without the consent of the commission, purchase or acquire, take or hold, more than ten per centum of the total capital stock issued by any railroad corporation or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the stock of any railroad corporation or street railroad corporation may with the consent of the commission acquire and hold the remainder of the capital stock of such railroad corporation or street railroad corporation or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this act, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such railroad corporation or street railroad corporation, or shall be recognized as effective for any purpose. (Laws 1913, p. 593, as repealed by new section Laws 1917, p. 435.)

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For matters relating to:
Power of state, see Sec. 54.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 55.
Power of Commission over issuance, see Sec. 57.
Recording of Commission's certificate, see Sec. 58.
Stock dividends, see Sec. 58.
Security issues in general, see Sec. 59.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 74-2, 98-2.

**Sec. 57. Approval of issues of stocks, bonds and other forms of indebtedness.**—A common carrier, railroad corporation or street railroad corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of Missouri, may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income, or from any other moneys in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness of such corporation, within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made: *Provided*, and not otherwise that there shall have been secured from the commission an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes, and other evidence of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Nothing herein contained shall prohibit the commission from giving its consent to the issue of bonds, notes or other evidence of indebtedness for the reimbursement of moneys heretofore actually expended from income for any of the aforesaid purposes, except maintenance of service and replacements, prior to five years next preceding the filing of an application therefor, if in the judgment of the commission such consent should be granted, provided application for such consent shall be made prior to January first, nineteen hundred and fourteen. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or

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investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the commission apply said issue or any proceeds thereof to any purpose not specified in such order. Such common carrier, railroad corporation or street railroad corporation may issue notes, for proper corporate purposes and not in violation of any provision of this act, or any other act, payable at periods of not more than twelve months without such consent, but no such notes shall, in whole or in part, directly or indirectly, be refunded, by any issue of stock or bonds or by any evidence of indebtedness running for more than twelve months without the consent of the commission: *Provided, however*, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise or right; nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporation so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. (Laws 1913, p. 594.)

For matters relating to:
Fees, see Sec. 21.
Power of state, see Sec. 54.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 55.
Acquisition of stock in another company, see Sec. 56.
Recording of Commission's certificate, see Sec. 58.
Stock dividends, see Sec. 58.
Security issues in general, see Sec. 59.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 75, 98a.

Applications for the issuance of stock (1 Mo. P. S. C. 88; 3 Mo. P. S. C. 593; 4 Mo. P. S. C. 95; 4 Mo. P. S. C. 461), notes (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 40; 3 Mo. P. S. C. 593), bonds (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 57; 1 Mo. P. S. C. 71; 1 Mo. P. S. C. 88; 1 Mo. P. S. C. 236; 3 Mo. P. S. C. 593; 4 Mo. P. S. C. 95; 4 Mo. P. S. C. 461), and refunding bonds (1 Mo. P. S. C. 1; 1 Mo. P. S. C. 12; 1 Mo. P. S. C. 236; 3 Mo. P. S. C. 593; 4 Mo. P. S. C. 95; 4 Mo. P. S. C. 461) have been approved.

The application of this section is limited to corporations organized or existing, or hereafter incorporated under or by virtue of the laws of the State of Missouri (1 Mo. P. S. C. 29) but is to be construed with sections 54 and 55 (1 Mo. P. S. C. 1). Capital stock cannot (1 Mo. P. S. C. 88) but the sale of bonds may be authorized at less than par (Ibid.) Except when issued for the purpose of taking over a connecting railroad, bond issues of railroads are limited to the amount of the authorized capital (1 Mo. P. S. C. 88). Street railway franchises are not to be capitalized in a reorganization case (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544). Stocks and bonds may be issued only for money paid, labor done or property actually received (1 Mo. P. S. C. 88; 2 Mo. P. S. C. 51), and their issuance as a bonus in exchange of old securities was not approved where unwarranted by the fair value of the property (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49).

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**Sec. 58. Certificate of commission to be recorded; stock dividends prohibited.**—1. No railroad corporation, street railroad corporation or common carrier governed by the provisions of this act shall issue any stock, bonds, notes or other evidence of indebtedness, for money, property or services, either directly or indirectly, nor shall it receive any money, property or services in payment of the same either directly or indirectly until there shall have been recorded upon the books of such corporation or person the certificate of the commission herein provided for. (Laws 1913, p. 595.)

2. No railroad corporation, street railroad corporation or common carrier governed by the provisions of this act shall declare any stock, bond or scrip dividend or divide the proceeds of the same of any stock, bond or scrip among its stockholders unless authorized by the commission so to do. (Laws 1913, p. 595.)

For matters relating to:
Power of state, see Sec. 54.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 55.
Acquisition of stock in another company, see Sec. 56.
Power of Commission over issuance, see Sec. 57.
Security issues in general, see Sec. 59.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 76, 99.

**Sec. 59. Power of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority, void; penalties and forfeitures; state not liable.**—1. The commission shall have the power to require railroad corporations, street railroad corporations and common carriers to account for the disposition of the proceeds of all sales of stocks, bonds, notes and other evidences of indebtedness in such form and detail as it may deem advisable and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order. (Laws 1913, p. 595.)

2. All stock, and every bond, note or evidence of indebtedness, of a railroad corporation, street railroad corporation or common carrier issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock, and every bond, note or other evidence of indebtedness, of a railroad corporation, street railroad corporation or common carrier issued with the authorization of the commission, but not conforming in its provisions, to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. (Laws 1913, p. 596.)

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3. Every railroad corporation, street railroad corporation or common carrier, which, directly or indirectly, issues or causes to be issued, any stock or stock certificates, or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the Constitution of the state, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein provided, or to any purpose specified in the commission's order in excess of the amount in said order authorized for such purpose, is subject to a penalty of not less than five hundred dollars nor more than twenty thousand dollars for each offense. (Laws 1913, p. 596.)

4. Every officer, agent or employee of a railroad corporation, street railroad corporation or common carrier, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock, or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the Constitution of this state, or who, in any proceeding before the commission, knowingly makes any false statement or representation, or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issue of any stock, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission in any proceeding, tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this act, negotiates, or causes the same to be negotiated, shall be deemed guilty of a felony and upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment. (Laws 1913, p. 596.)

5. No provision of this act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Missouri to pay or guarantee, in

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any manner whatsoever, any stock, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this act. (Laws 1913, p. 597.)

6. All stocks, and every bond, note or other evidence of indebtedness issued by any railroad corporation, street railroad corporation or common carrier after this act takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of this act, shall be void, unless an order of the commission authorizing the issue of such stock, or bonds, notes, or other evidences of indebtedness shall have been obtained from the commission prior to such issue. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 597.)

For matters relating to:
Power of state, see Sec. 54.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 55.
Acquisition of stock in another company, see Sec. 56.
Power of Commission over issuance, see Sec. 57.
Recording of Commission's certificate, see Sec. 58.
Stock dividends, see Sec. 58.
Valuation, see Sec. 60.
Reorganization, see Sec. 62.
Similar provisions, see Secs. 77, 100.

**Sec. 60. Power of commission to ascertain valuation of common carriers.**—1. The commission shall have the power to ascertain the value of the property of every railroad corporation, street railroad corporation and common carrier in this state and every fact which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every railroad corporation, street railroad corporation and common carrier. (Laws 1913, p. 597.)

2. For the purpose of ascertaining the matters and things specified in this section concerning the value of the property of railroad corporations, street railroad corporations and common carriers the commission may cause a hearing or hearings to be held at such time or times or place or places as the commission may designate. Before any hearing is had, the commission shall give the railroad corporation, street railroad corporation or common carrier affected thereby at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All railroad corporations, street railroad corporations and common carriers affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The commission is empowered to resort

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to any other source of information available which information shall be offered in evidence on such hearing. The evidence introduced at such a hearing or at such hearings shall be reduced to writing and certified under the seal of the commission. The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the railroad corporation, street railroad corporation or common carrier affected. Such findings shall be subject to review by any circuit court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court in which the commission, the state or any officer, department or institution thereof, or any county, city, municipality or other body politic and the railroad corporation, street railroad corporation or common carrier affected may be interested, whether arising under the provisions of this act or otherwise, and such findings when so introduced shall be conclusive evidence of the acts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any railroad corporation, street railroad corporation or common carrier subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings: *Provided*, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation. (Laws 1913, p. 597.)

For matters relating to:
Value in rate cases, see Sec. 47-1.
Apportionment of value, expenses and return, see Sec. 47-1 Return.
Valuation of franchises for security issues, see Sec. 57.
Valuation upon reorganization, see Sec. 62.
Similar provisions, see Secs. 78, 101.

IN GENERAL. The Commission is not authorized to accept a valuation made by a municipal body, but must determine value after statutory procedure (2 Mo. P. S. C. 357, P. U. R. 1915 D, 482), giving consideration to original cost, cost of reproduction new, amount and market value of securities and earning value of property in fixing value for rate-making purposes (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607).

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METHODS AND MEASURES. While the separate items of value should be considered, a railroad rate valuation should be based on the system as an entirety (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Original cost theory considered a safer guide than cost of reproduction new in valuing property of recent construction, but present as compared with original cost is considered in determining present value (2 Mo. P. S. C. 51), and considerable weight is given original cost plus additions and betterments, accompanied with evidence as to original value, and appreciation and depreciation (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Excessive depreciation account and lease rental are not justified (3 Mo. P. S. C. 301) but an estimate of accrued depreciation, although not actually incurred, is given consideration in allowing for depreciation reserve as an operating expense (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), whereas substantial depreciation has been deemed not to have occurred in an interurban railway of recent construction (2 Mo. P. S. C. 51). Cost of reproduction new less depreciation given weight although charging certain renewals to maintenance tends to maintain the integrity of the investment (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Cost of reproduction of railroad ballast should be based on construction as a whole (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). An estimate of value of railroad rails, based on a cost of $31.50 and depreciated to 87% condition (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), and of ties, made after actual count and classification for 500 feet in every mile of track, with unit prices sufficiently high, and properly depreciated (Ibid.) was adopted. Investment as shown by examination of books (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607) and consideration expressed in deeds (Ibid.) given considerable weight in valuation proceedings, but sums paid for land and charged to "right of way and station grounds" should be credited to that account when disposed of (Ibid.)

NONPHYSICAL ELEMENTS. Construction contracts should be let to disinterested parties (1 Mo. P. S. C. 88). In ascertaining value, allowance is to be made for adaptation and solidification of the roadbed, appreciating grading (2 Mo. P. S. C. 51; 3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), for commissions in the sale of securities (2 Mo. P. S. C. 51), but not to subscribers of stock (Ibid.), for actual expenses of promotion services (Ibid.), for costs of engineering on construction, excluding land, depreciated, (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), for organization, legal, stationery, printing and taxes during construction (Ibid.), for surplus and contingencies (2 Mo. P. S. C. 67), for interest at six per cent on the total amount for one-half the time of construction (2 Mo. P. S. C. 51; 3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), but not on estimated amounts for settling litigation arising from construction or money taken from earnings and expended in construction (2 Mo. P. S. C. 51), or replacements, in fixing original cost (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), nor are allowances to be made for stock and bond discounts (2 Mo. P. S. C. 51).

TANGIBLE PROPERTY. Telephone property owned by a railroad and used, in connection with railroad service, for local exchange service, is excluded before apportionment of value between state and interstate service (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Property used in the public profession and in fact the property of the utility in question, although with title in another, is valued (2 Mo. P. S. C. 51), and railroad right of way, acquired without substantial consideration (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607), or the gift of private citizens, is to be capitalized at the fair market value of contiguous land (1 Mo. P. S. C. 88), plus actual costs of acquisition (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607). Reasonable allowances for working capital (2 Mo. P. S. C. 51)—$20,000 for a railroad having monthly expenses of $10,000 and $9,512 of stores on hand (3 Mo. P. S. C. 1, P. U. R. 1916 C, 607) and $30,000 for an interurban railroad valued at $3,900,000 (2 Mo. P. S. C. 67)—is proper. Expenditures for improvements and betterments are capital charges and not operating expenses (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512).

INTANGIBLE PROPERTY. Going value has been considered not a proper item of allowance in a rate case (2 Mo. P. S. C. 51. But see later cases under "Similar Provisions.")

**Sec. 61. Power of commission to require depreciation account of common carriers.**—The commission shall have power, after hearing, to require any or all railroad corporations, street railroad corporations or common carriers to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of such corporation, person or public utility. Each railroad corporation, street railroad corporation and common carrier shall conform its depreciation accounts to



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the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund. (Laws 1913, p. 599.)

For matters relating to:
Annual reports, see Sec. 44.
Uniform system of accounts, see Sec. 52.
Depreciation in value, see Sec. 60.
Similar provisions, see Secs. 79, 102.

**Sec. 62. Reorganizations.**—Reorganizations of railroad corporations, street railroad corporations and common carriers shall be subject to the supervision and control of the commission and no such reorganization shall be had without the authorization of the commission. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission which, in making its determination, shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash: *Provided, however,* that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 599.)

For matters relating to:
Security issues, see Secs. 54-59.
Value, see Secs. 47-1, 60.
Similar provisions, see Secs. 80, 103.

Plans for reorganization examined carefully to ascertain capitalization, fair value of property and consistency of plan with constitution, laws and public policy of the state (4 Mo. P. S. C. 461; 3 Mo. P. S. C. 593, P. U. R. 1916 E, 544; 3 Mo. P. S. C. 664, P. U. R. 1916 F, 49). The amount of capitalization upon reorganization must not exceed the fair present value of the property, taking into account the original cost, duplication cost, present condition, earning power at reasonable rates, other relevant matters and additional sums paid in cash, making allowances for discount on bonds (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544; 4 Mo. P. S. C. 461; 3 Mo. P. S. C. 664, P. U. R. 1916 F, 49). In passing upon value in a reorganization case, consideration is given the necessity for working capital (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49), discount on bonds (Ibid.) but not in addition to interest during construction when considered a part of the cost of construction (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544), original cost to date as determined by a competent audit (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544), superseded property (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544), successful operation by an efficient working force, although the finances of the company may not have been working successfully (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49; 3 Mo. P. S. C. 593, P. U. R. 1916 E, 544)—a 5-cent street railway fare giving "earning power at reasonable rates" (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544)—but franchises are not to be capitalized (Ibid.), and the necessity of including new cash has been passed over (4 Mo. P. S. C. 461). Determination of fair value in a reorganization case is different from determination in a rate case (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49; 3 Mo. P. S. C. 593, P. U. R. 1916 E, 544; 4 Mo. P. S. C. 461) and is not binding upon the Commission in a rate case (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49). Reasonable and just reorganization expenses should be paid, but extravagant and wasteful expenditures should not be approved (3 Mo.

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P. S. C. 664, P. U. R. 1916 F, 49). The reorganization plan should be regarded as part of the articles of association or charter of the new company (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49), and the tender of preferred stock to nonsecured creditors in settlement of claims has been approved (4 Mo. P. S. C. 461; whereas a plan which seeks to defeat rights of unsecured creditors is not favored (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49), but approval is not withheld for lack of protecting nonassenting security holders, not depositing their securities with the reorganization committee (3 Mo. P. S. C. 593, P. U. R. 1916 E, 544). Although questioning legality, a plan of reorganization of a railroad providing for control under a voting trust, representing in the majority the bondholders, is approved (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49; 4 Mo. P. S. C. 95; 4 Mo. P. S. C. 461). Exchange of stock and bonds for property and securities of old company upon reorganization primarily matter of private agreement (4 Mo. P. S. C. 461). A reorganization plan giving holders of income bonds the option to convert them into preferred stock without the consent of the common stockholders is inconsistent with the law and public policy of this state (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49). Capital obligations hereunder embrace outstanding obligations jointly assumed, partially assumed and certificates issued in payment of stock (3 Mo. P. S. C. 664, P. U. R. 1916 F, 49).

**Sec. 63. Forfeiture—penalties.**—1. Every common carrier, railroad corporation and street railroad corporation and all officers and agents of any common carrier, railroad corporation or street railroad corporation shall obey, observe and comply with every order or decision made by the commission, under authority of this act so long as the same shall be and remain in force. Any common carrier, railroad corporation or street railroad corporation which shall violate any provision of this act, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of the commission, shall forfeit to the state of Missouri not less than one hundred dollars nor more than five thousand dollars for each and every offense; every violation of any such order or direction or requirement, or of this act, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. (Laws 1913, p. 599.)

2. Every officer and agent of every such common carrier or corporation who shall violate, or who procures, aids or abets any violation by any such common carrier or corporation of any provision of this act, or who shall fail to obey, observe and comply with any order of the commission or any provision of an order of the commission, or who procures, aids or abets any such common carrier or corporation in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor. (Laws 1913, p. 600.)

For matters relating to:
Summary proceedings, see Sec. 64.
Penalties imposed on others, see Sec. 65.
Similar provisions, see Secs. 83, 104.
Consult also specific sections.

Commission may secure hereunder observance of rates found reasonable (270 Mo. 547, 194 S. W. 287).

**Sec. 64. Summary proceedings.**—Whenever the commission shall be of the opinion that a common carrier, railroad corporation or street railroad corporation is failing or omitting or about to fail or omit to do anything required of it by law or by order or decision of the commission, or is doing anything or about to do anything or permitting anything or about to permit anything

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to be done, contrary to or in violation of law or of any order or decision of the commission, it shall direct the general counsel to the commission to commence an action or proceeding in any circuit court of the state of Missouri in the name of the commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunctions. The general counsel to the commission shall thereupon begin such action or proceeding by a petition to such court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding thirty days after service of a copy of the petition, within which the common carrier, railroad corporation or street railroad corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of the general counsel to the commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief. (Laws 1913, p. 600.)

For matters relating to:
Adequate service, see Sec. 47-2.
Equipment and facilities, see Sec. 49.
Penalties imposed on utilities, see Sec. 63.
Penalties imposed on others, see Sec. 65.
Similar provisions, see Secs. 84, 105.
Consult also specific sections.

Franchise terms may be enforced through the institution of court proceedings by the counsel to the Commission (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004).

**Sec. 65. Penalties for other than common carriers.**—1. Any corporation, other than a common carrier, railroad corporation or street railroad corporation, which shall violate any provision of this act, or shall fail to obey, observe and comply with every order or decision made by the commission under authority of this act so long as the same shall be and remain in force, shall forfeit to the state of Missouri a sum not exceeding one thousand dollars; every such violation shall be a separate and distinct offense, and the penalty or forfeiture thereof shall be recovered in an action as provided in this act. (Laws 1913, p. 601.)

2. Every person who, either individually or acting as an officer or agent of a corporation other than a common carrier, railroad corporation or street railroad corporation, shall violate any provision of this act, or fail to obey, observe or comply with any order or decision made by the commission under this act so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this act, or

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in its failure to obey, observe or comply with any such order, shall be guilty of a misdemeanor. (Laws 1913, p. 601.)

3. In construing and enforcing the provisions of this act relating to forfeitures and penalties the act of any director, officer or other person acting for or employed by any common carrier, railroad corporation or street railroad corporation, or corporation, acting within the scope of his official duties or employment, shall be in every case and be deemed to be the act of such common carrier, railroad corporation or street railroad corporation, or corporation. (Laws 1913, p. 601.)

For matters relating to:
Penalties imposed on utilities, see Sec. 63.
Summary proceedings, see Sec. 64.
Consult also specific sections.

**Sec. 66. Duties of commission as to interstate traffic.**—The commission may investigate interstate freight or passenger rates or interstate freight or passenger service on railroads within the state, and when such rates are, in the opinion of the commission, excessive or discriminatory or are levied or laid in violation of the act of congress, entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission may apply by petition to the interstate commerce commission for relief or may present to the interstate commerce commission all facts coming to its knowledge, as to violations of the rulings, orders or regulations of that commission or as to violations of the said act to regulate commerce or acts amendatory thereof or supplementary thereto. (Laws 1913, p. 601.)

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## ARTICLE IV.

### PROVISIONS RELATING TO GAS CORPORATIONS, ELECTRICAL CORPORATIONS AND WATER CORPORATIONS; REGULATION OF PRICE OF GAS, ELECTRICITY AND WATER.

Section 67. Application of article.
68. Safe and adequate service; just and reasonable charges.
69. General powers of commission in respect to gas, water and electricity.
70. Power of commission to stay increased rate.
71. Inspection of gas, water and electric meters.
72. Approval of incorporation and franchises; certificate.
73. Right to issue stocks, bonds and notes subject to regulation by state.
74. Approval of transfer of franchises.
75. Approval of issues of stocks, bonds and other forms of indebtedness.
76. Certificate of commission to be recorded; stock dividends prohibited.

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77. Power of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority, void; penalties and forfeitures; state not liable.
78. Power of commission to ascertain valuation of property of gas, electrical and water corporations.
79. Power of commission to require depreciation account of gas, electrical and water corporations.
80. Reorganizations.
81. Complaints as to quality and price of gas, water and electricity; investigation by commission; forms of complaints.
82. Notice and hearing; order fixing price of gas, water or electricity, or requiring improvement.
83. Forfeiture for non-compliance with order.
84. Summary proceedings.
85. Defense in case of excessive charges for gas, water or electricity.

**Sec. 67. Application of article.**—This article shall apply to the manufacture and furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat or power, and the generation, furnishing and transmission of electricity for light, heat or power, and the supplying and distributing of water for any purpose whatsoever. (Laws 1913, p. 602.)

For matters relating to:
Definitions, see Sec. 2.
Jurisdiction, see Sec. 16.
Similar provisions, see Secs. 26, 86.
Former repugnant statutes repealed (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576).

**Sec. 68. Safe and adequate service; just and reasonable charges.**—1. Every gas corporation, every electrical corporation, every water corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electrical corporation, water corporation or municipality for gas, electricity, water or any service rendered or to be rendered, shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity, water or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited. (Laws 1913, p. 602.)

For matters relating to:
Similar provisions, see Secs. 27, 87-1.
Consult specific sections.

2. No gas corporation, electrical corporation, water corporation or municipality shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity, water or for any service rendered or to be rendered or in connection therewith, except as authorized in this act, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or sub-

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stantially similar circumstances or conditions. (Laws 1913, p. 602.)

For matters relating to:
Power of Commission over discriminatory rates, see Sec. 69-5.
Deviation from schedule rates, see Sec. 69-12.
Power of Commission to stay increased rates, see Sec. 70.
Determination of just and reasonable rates, see Sec. 82.
Similar provisions, see Secs. 33, 87-2.

Rates lower than the cost of service to one class of consumers result in discrimination (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576), but classification of rates, based upon a reasonable relation of the difference in service, is permissible (Ibid.; 3 Mo. P. S. C. 434, P. U. R. 1916 E, 308). The furnishing of service free to shoe factories, churches and public schools (4 Mo. P. S. C. 631, P. U. R. 1917 D, 224), or at different rates for manufacturing purposes than for general use (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576), or to stockholders than to non-stockholders (1 Mo. P. S. C. 564) has been found discriminatory. Low rates for long-hour or daytime use of electricity justified only in reduction of cost to all consumers and that no discrimination results (1 Mo. P. S. C. 564). Rates containing inequalities, unjust discriminations, undue preferences or advantages are not justified by municipal action, the desire of municipal authorities, the encouragement of business, or usage or custom (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576). Minimum charges based on flat-rate charges and resulting in different charges to consumers served at the same time under like conditions are discriminatory (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125), as are minimum charges for electric service varying from nothing to $25.00 per month (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Test for determination of reasonableness of classification of rates for water service (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576) set forth. Contracts giving rates different from those prescribed violate this section (1 Mo. P. S. C. 564), but insufficiency of evidence precludes a finding (2 Mo. P. S. C. 177, P. U. R. 1915 B, 908). A higher rate in one locality than another has been considered discriminatory (1 Mo. P. S. C. 355; 3 Mo. P. S. C. 403), as rates for water service (1 Mo. P. S. C. 355) and charges of a natural gas supply company (3 Mo. P. S. C. 403); but the mere fact of lower rates in one locality than in another (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), or that service is sold in bulk to certain municipalities at lower rates than to other consumers (Ibid.) does not disclose discrimination, and different charges for electric service have been considered justified on account of loss of energy and increased cost of service (1 Mo. P. S. C. 355). However, unjust discriminations within and without the municipality granting the franchise are prohibited (1 Mo. P. S. C. 355). Franchise rates should not be held discriminatory without a complete valuation (1 Mo. P. S. C. 664). Supreme Court decisions based upon "exceptional discrimination" not binding upon this Commission (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576). Discriminations due to error and overcharges ordered ceased (1 Mo. P. S. C. 130). That discrimination be eliminated it has been suggested that the utility purchase the distribution system in a municipal subdivision and furnish service at rates charged in the city (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679). Exercising a discretion as to whether or not to exact a cash deposit or personal guaranty, at the option of the consumer, is not unjust discrimination (1 Mo. P. S. C. 130). Original and periodic inspections to determine connected load or measurement of demand should be had that discrimination be eliminated and consumers afforded service at lowest cost (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645).

3. No gas corporation, electrical corporation, water corporation or municipality shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (Laws 1913, p. 603.)

For matters relating to:
Power of Commission over discriminatory service, see Sec. 69-5.
Deviation from schedule privileges, see Sec. 69-12.
Determination of just and reasonable service, see Sec. 82.
Similar provisions, see Secs. 34, 87-3.

Utilities are obliged to serve all alike, without discrimination (2 Mo. P. S. C. 12). Discontinuance of electric service to some of a class of consumers is discriminatory (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144). Water utilities should treat all plumbers with fairness and impartiality (1 Mo. P. S. C. 664).

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4. Nothing in this act shall be taken to prohibit a gas corporation, electrical corporation or water corporation from establishing a sliding scale for a fixed period for the automatic adjustment of charges for gas, electricity, water, or any service rendered or to be rendered and the dividends to be paid stockholders of such gas corporation, electrical corporation or water corporation: *Provided*, that the sliding scale shall first have been filed with and approved by the commission; but nothing in this subdivision shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for service as authorized in this article. (Laws 1913, p. 603.)

For matters relating to:
Power of Commission over rates, see Sec. 69-5.
Deviation from schedule rates, see Sec. 69-12.
Power of Commission to stay increased rates, see Sec. 70.
Stock dividends prohibited, see Sec. 76-2.
Power of Commission over security issues, see Secs. 73-77.
Determination of just and reasonable rates, see Sec. 82.

**Sec. 69. General powers of commission in respect to gas, water and electricity.**—The commission shall: 1. Have general supervision of all gas corporations, electrical corporations and water corporations having authority under any special or general law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing water or gas or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors, and all gas plants, electric plants and water systems owned, leased or operated by any gas corporation, electrical corporation or water corporation. (Laws 1913, p. 603.)

For matter relating to:
Jurisdiction in general, see Sec. 16.
Similar provisions, see Secs. 43-1, 90-1.
Consult specific sections.

Commission's jurisdiction exists without regard to charter, franchise or statutory authority of the public utility (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144), and the use of streets is of little importance in determining the character of the undertaking (Ibid.) The power of the board of aldermen of the city of St. Louis to fix license taxes for gas utilities is not impaired by the Public Service Commission law (—— Mo. App. ——, 191 S. W. 1109, —— Mo. ——, 195 S. W. 710). This Commission has authority to enforce franchise provisions (1 Mo. P. S. C. 130; 1 Mo. P. S. C. 664), but a resolution extending time for compliance with franchise provisions not ratified by vote of people (1 Mo. P. S. C. 664) is of no effect. Three members of the board of directors of corporations are to be residents of this state (1 Mo. P. S. C. 468).

2. Investigate and ascertain, from time to time, the quality of gas or water supplied by persons, corporations and municipalities; examine or investigate the methods employed by such persons, corporations and municipalities in manufacturing, distributing and supplying gas or electricity for light, heat or power and in transmitting the same, and in supplying and distributing water for any purpose whatsoever, and have power to order such reasonable improvements as will best promote the public interest,

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preserve the public health and protect those using such gas, electricity or water, and those employed in the manufacture and distribution thereof, and have power to order reasonable improvements and extensions of the works, wires, poles, pipes, lines, conduits, ducts and other reasonable devices, apparatus and property of gas corporations, electrical corporations, water corporations and municipalities. (Laws 1913, p. 603.)

For matters relating to:
Standards of service, see Sec. 69-3.
Service in general, see Secs. 69-5, 82.
Equipment and facilities, see Secs. 69-5, 116.
Meters, see Sec. 71.

3. Have power by order to fix from time to time standards for the measurement of the purity or illuminating power of gas to be manufactured, distributed or sold by persons, corporations or municipalities for lighting, heating or power purposes, to prescribe from time to time the efficiency of the electric supply system, of the current supplied and of the lamps furnished by the persons, corporations or municipalities generating and selling electric current, and to fix from time to time standards for the measurement of the purity or pressure of water to be distributed or sold by persons, corporations or municipalities for any purpose whatsoever, and by order to require gas so manufactured, distributed or sold to equal the standards so fixed by it, and to prescribe from time to time the reasonable minimum and maximum pressure at which gas shall be delivered by said persons, corporations or municipalities. For the purpose of determining whether the gas manufactured, distributed or sold by such persons, corporations or municipalities for lighting, heating or power purposes conforms to the standards of illuminating power, purity and pressure, and for the purpose of determining whether the efficiency of the electric supply system, of the current supplied and of the lamps furnished, and for the purpose of determining whether the water furnished or sold conforms to the standard of purity and pressure, and conforms to the orders issued by the commission, the commission shall have power, of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering and supplying gas, electricity or water, and shall have access, through its members or persons employed and authorized by it, to make such examinations and investigations, to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission or distribution of gas or electricity by any such person, corporation or municipality, and to all parts of the systems owned, used or operated for the supplying and distribution of water by any such person, corporation or municipality. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except in so far as he may be directed by the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor. (Laws 1913, p. 604.)

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For matters relating to:
Quality of service, see Sec. 69-2.
Service in general, see Secs. 69-5, 82.
Meters, see Sec. 71.
Commission to fix units of service, see Sec. 126.

4. Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations, electrical corporations, water corporations and by municipalities engaged in the manufacture, sale or distribution of gas and electricity for light, heat or power, or in the distribution and sale of water for any purpose whatsoever. It may also, in its discretion, prescribe, by order, forms of accounts, records and memoranda to be kept by such persons, corporations and municipalities. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporation shall be subject to examination by the commission. (Laws 1913, p. 604.)

For matters relating to:
Annual reports, see Secs. 69-6, 69-7.
Examination and correction of accounts, see Sec. 69-9.
Depreciation account, see Sec. 79.
Similar provisions, see Secs. 52, 91-2.

Uniform system of accounts for electrical corporations and municipalities (G. O. No. 12, Cir. No. 26), gas corporations and municipalities (G. O. No. 13, Cir. No. 27), water corporations and municipalities (G. O. No. 14, Cir. No. 28), and heating companies and municipalities (G. O. No. 15, Cir. No. 29) have been adopted.

5. Examine all persons, corporations and municipalities under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons, corporations, or municipalities are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such person, corporation or municipality are unsafe, insufficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters. (Laws 1913, p. 605.)

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For matters relating to:
Definitions, see Sec. 2.
In general, see Sec. 68-1.
Discrimination, see Secs. 68-2, 68-3.
Quality of service, see Sec. 69-2.
Standards of service, see Sec. 69-3.
Rate schedules, etc., see Sec. 69-12.
Staying increased rates, see Sec. 70.
Meters, see Sec. 71.
Determination of just and reasonable rates and service, see Secs. 82, 116.
Commission to fix units of service, see Sec. 126.
Similar provisions, see Secs. 47-1, 47-2, 93-1, 93-2.

RATES, including JURISDICTION, KINDS OF RATES, RATES OF PARTICULAR UTILITIES, PAYMENT OF CHARGES AND RETURN, see Sec. 82.

SERVICE IN GENERAL. Rules regulating gas, electric and water service (G. O. No. 20, Cir. No. 34) have been adopted. Mandamus to compel adequate service by a gas company refused because the Commission is in a better position to reach a just solution than the court (254 Mo. 515, 163 S. W. 854). Continuous electric service ordered furnished by an electric utility where a demand therefor exists and rates are more than ordinarily remunerative (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24). An unduly harsh order directing the removal of a utility's officer is modified (1 Mo. P. S. C. 130). Water utilities should maintain adequate pressure for fire service (1 Mo. P. S. C. 191), including service to unincorporated villages under reasonable rules (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), and should furnish pure and wholesome water in sufficient quantity to meet the demands (1 Mo. P. S. C. 242).

RULES AND REGULATIONS. Public utilities may adopt reasonable rules and regulations covering service (1 Mo. P. S. C. 130), which rules should be published and definitely known (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), and the reasonableness and justness of certain rules covering installation and discontinuance of service, cash deposits, penalties, limitations of liability and changes in rules and regulations has been passed upon (1 Mo. P. S. C. 130). Reasonable rules for the discontinuance of service are advisable (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), but notice to discontinue service (1 Mo. P. S. C. 130) during certain periods of the year is essential thereto (4 Mo. P. S. C. 540, P. U. R. 1917 C, 33), and failure to render bill at end of billing period does not relieve consumer from giving such notice (4 Mo. P. S. C. 540, P. U. R. 1917 C, 33). Discontinuance of service is not justified by unfriendly relations between consumer and officers (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144) or that only excess current is sold (Ibid.) (See also Sec. 82, Payment.)

EQUIPMENT AND FACILITIES. Public utilities should furnish all facilities for rendering service (4 Mo. P. S. C. 28), including meters (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 1 Mo. P. S. C. 564; 1 Mo. P. S. C. 355; 1 Mo. P. S. C. 130) and keep them in repair (1 Mo. P. S. C. 355), including the extension of service mains in unincorporated territory (3 Mo. P. S. C. 515, P. U. R. 1916 E, 204). No general rule applicable to the ownership of meters has been adopted (4 Mo. P. S. C. 28) and the installation of meters at consumer's expense by a municipally owned utility has been found not unreasonable or discriminatory (3 Mo. P. S. C. 576). Franchise provisions covering payment of meter installation by consumer in certain instances not disturbed (1 Mo. P. S. C. 664), but a deposit for the safe keeping of a meter should be returned to the consumer, with interest from the date of a Commission's order requiring it (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), as such deposit is not proper (1 Mo. P. S. C. 130). Utilities may install meters on flat rate consumers services to detect waste, abuse or misuse of service (1 Mo. P. S. C. 664). Water utility deemed negligent in permitting meter to remain in service over a year without repair, in making no record of test upon repair, and in not inspecting meter after abnormal reading (2 Mo. P. S. C. 38). The Commission may order the extension of service mains for the better protection of the public for the rendition of adequate service, or in compliance with municipal resolutions (1 Mo. P. S. C. 664), but the enforcement of invalid ordinance provisions requiring a water utility to bring mains to the curb line (2 Mo. P. S. C. 254, P. U. R. 1915 C, 138), or the laying of pipes and mains in streets about to be paved or enjoining the subsequent tearing up of the street in the absence of a demand for service (1 Mo. P. S. C. 209) is not to be had. Requiring all new consumers to make extensions of mains and providing for a refund of one-half the amount paid for service in three years is unreasonable and discriminatory (3 Mo. P. S. C. 515, P. U. R. 1916 E, 204), as, generally, an applicant's payment of an extension main should be considered in the nature of a loan (Ibid.), but unduly burdensome extensions of mains may be referred to the Commission for adjustment (Ibid.) Commission is without jurisdiction to refund payments for extensions of mains made by consumers (3 Mo. P. S. C. 515, P. U. R. 1916 E, 204). Evidence held insufficient to require water corporation to deliver water at the curb line (2 Mo. P. S. C. 254, P. U. R. 1915 C, 138).

SAFETY IN OPERATION. The tapping of water mains is under the control of the utility (1 Mo. P. S. C. 664). Recommendations of committee on overhead line construction of National Electric Light Association for construction of overhead lines adopted, the recon-

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struction to be had with reasonable promptness (2 Mo. P. S. C. 219). Fixtures placed on telephone poles so as to allow a clearance of thirty-two inches for electric wires directed installed (2 Mo. P. S. C. 208). Electric utility required to show cause why an order heretofore granted for the construction of an electric transmission line should not be modified for public safety (4 Mo. P. S. C. 490, P. U. R. 1917 A, 351). Failure on part of complainant to remove obstacle preventing proper location of street light precludes order requiring installation (2 Mo. P. S. C. 678). Evidence held insufficient to warrant order with respect to proper insulation of overhead electric wires (2 Mo. P. S. C. 678).

QUALITY OF SERVICE. Construction of an intake tower, pipe line and pumping station ordered that sufficient wholesome water be furnished (2 Mo. P. S. C. 678), but a previous order is modified so as to permit of construction at less expense (4 Mo. P. S. C. 687). That pure and wholesome water in sufficient quantities to meet the demand may be had, the flushing of mains and "dead end" pipes as often as necessary (1 Mo. P. S. C. 191), the installation of a complete filtration system (1 Mo. P. S. C. 242), the construction of a fence around (1 Mo. P. S. C. 664) and cleaning of a reservoir at proper intervals (2 Mo. P. S. C. 678), and discontinuance of supply from a creek (1 Mo. P. S. C. 123) upon completion of deep wells (1 Mo. P. S. C. 664), has been ordered.

6. Require every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission an annual report, verified by the oath of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person, corporation or municipality making such report to amend the same within a time prescribed by the commission. Any such person, corporation or municipality which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school

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fund of the state. The commission may extend the time prescribed for cause shown. (Laws 1913, p. 605.)

For matters relating to:
Uniform system of accounts, see Sec. 69-4.
Annual reports of municipal utilities, see Sec. 69-7.
Examination and correction of accounts, see Sec. 69-9.
Filing, etc., of schedules, see Sec. 69-12.
Depreciation account, see Sec. 79.
Similar provisions, see Secs. 44, 69-7, 91-1.

Forms for annual reports of gas, electric, water and heating companies have been prescribed by this Commission.

7. Require each municipality engaged in operating any works or systems for the manufacture and supplying of gas or electricity or for the supplying of water to make an annual report to the commission, verified by the oath of the general manager or superintendent thereof, showing in detail (a) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (b) its receipts and expenditures during the preceding year; (c) the amount paid as interest upon its bonds and other forms of evidence of indebtedness; (d) the name and the amount paid to each person receiving a salary, yearly or monthly, and the amount paid as wages to employees; (e) the location of its plant and system with a full description of the property; and (f) such other facts pertaining to the operation and maintenance of the plant and system as may be required by the commission. Such report shall be in the form, cover the period and be filed at the time prescribed by the commission. (Laws 1913, p. 606.)

For matters relating to:
Uniform system of accounts, see Sec. 69-4.
Annual reports of privately owned utilities, see Sec. 69-6.
Examination and correction of accounts, see Sec. 69-9.
Filing, etc., of schedules, see Sec. 69-12.
Depreciation account, see Sec. 79.
Similar provisions, see Sec. 44, 69-6, 91-1.

Forms for annual reports of gas, electric, water and heating companies have been prescribed by this Commission.

8. Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, factories, power houses, ducts, conduits and offices of any of such corporations, persons or municipalities. (Laws 1913, p. 606.)

For matters relating to:
Inspection of meters, see Sec. 71.
Similar provisions, see Secs. 43-1, 90-1.

9. Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation, person or municipality, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. (Laws 1913, p. 606.)

For matters relating to:
Uniform system of accounts, see Sec. 69-4.
Form of annual reports, see Secs. 69-6, 69-7.
Depreciation account, see Sec. 79.
Similar provisions, see Secs. 43-2, 90-2.

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Cost of brick for boiler setting should be included in cost of boiler (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), while the cost of hay is chargeable to station expense and not station labor (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), and absent "depreciation reserve," boiler purchased to replace another is chargeable to "surplus" and not "maintenance" (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017).

10. Have power to compel, by subpoena *duces tecum*, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena *duces tecum* the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. The commission may require of all such corporations, persons or municipalities, specific answers to questions upon which the commission may need information, and may also require such corporations, persons or municipalities to file periodic reports in the form, covering the period and filed at the time prescribed by the commission. If such corporation, person or municipality shall fail to make specific answer to any question or shall fail to make a periodic report when required by the commission as herein provided within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation, person or officer of the municipality shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. (Laws 1913, p. 606.)

For matters relating to:
Witnesses, see Sec. 69-11.
Valuation proceedings, see Sec. 78.
Hearings in general, see Sec. 82.
Similar provisions, see Secs. 43-2, 90-2.

11. Have power in all parts of the state, either as a commission or through its members, to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter under this article. (Laws 1913, p. 607.)

For matters relating to:
Subpoenaes duces tecum, see Sec. 69-10.
Valuation proceedings, see Sec. 78.
Hearings in general, see Sec. 82.
Witnesses in general, see Secs. 22, 23.

12. Have power to require every gas corporation, electrical corporation, water corporation and municipality to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such gas corporation, electrical corporation, water corporation or municipality; but this subdivision shall not apply to state, municipal or federal contracts. Unless the commission otherwise orders, no change shall be made in any rate or charge,

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or in any form of contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed and published by a gas corporation, electrical corporation, water corporation or municipality in compliance with an order or decision of the commission, except after thirty days' notice to the commission and publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect. The commission for good cause shown may allow changes without requiring the thirty days' notice under such conditions as it may prescribe. No corporation or municipality shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation or municipality refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances. The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations, to carry into effect the provisions of this subdivision, as it may deem necessary, and to modify and amend such rules or regulations from time to time. (Laws 1913, p. 607.)

**For matters relating to:**

**Power of Commission over just and reasonable rates, see Sec. 69-5.**
**Power of Commission to stay increased rates, see Sec. 70.**
**Determination of just and reasonable rates, see Sec. 82.**
**Similar provisions, see Secs. 29, 31, 35-1, 88.**

**Regulations prescribing the form and governing the filing and publication of schedules of rates of electrical corporations and municipalities (G. O. No. 5, Cir. No. 10), of water corporations and municipalities (G. O. No. 7, Cir. No. 16), of gas corporations and municipalities (G. O. No. 6, Cir. No. 14), and of heating companies and municipalities (G. O. No. 8, Cir. No. 18) have been adopted. Filing an electric rate sheet providing "special rates for power on contract basis" constitutes neither a schedule nor a filing of such rates (2 Mo. P. S. C. 177, P. U. R. 1915 B, 908), as schedules of rates should show *all* charges in force (1 Mo. P. S. C. 355). Serving power consumers of electricity under regular schedules in lieu of special agreements approved (3 Mo. P. S. C. 434, P. U. R. 1916 E, 308). Separate schedules of rates are unnecessary where all consumers are lighting consumers, separate provisions being made for minimum charges (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Electric rate schedules showing a high maximum for short hour use with an abrupt drop for long hour use are objectionable (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). Failure to provide a charge for the ½ kw. hr. between 7½ kw. hrs. and 8 kw. hrs. evidences an intent to supply current up to 8 kw. hrs. for the 7½ kw. hr charge (2 Mo. P. S. C. 177, P. U. R. 1915 B, 908). Rules governing electric service found in rate schedules should be rigidly enforced (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645). Block rates are in general more satisfactory than hours-use rates for residence lighting (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), but based upon blocks of 100 kw. hrs. are unreasonable (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512), whereas blocks of 20 kw. hrs. for residence and 40 kw. hrs. for business use are proper (Ibid.) Step rate schedules, subject to adjustment with next succeeding step, and a schedule based on what the traffic will bear are objectionable (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). A rate schedule based upon a sliding scale fixing maximum prices for electric energy prescribed (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Block, and not step, rates are prescribed by schedule calling for electric service at a rate not to exceed 14 cents per kw. to**

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consumers using less than twenty kws. in the month, and *all* over twenty kws. used in the same month, 10 cents per kw. (2 Mo. P. S. C. 177, P. U. R. 1915 B, 908). Twenty-four hour service is professed under electric rate schedule not limiting hours of service (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24). Preparation of a just and reasonable rate schedule of a municipally owned plant devolves in the first instance upon the municipality (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576). Rate schedules providing for flat and metered service leave the option with the consumer (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125). Fraudulent modification of contract for breakdown service disregarded in rate case (1 Mo. P. S. C. 468). Contracts giving rates different from those prescribed violate this section (1 Mo. P. S. C. 564).

13. In case any electrical corporation, gas corporation or water corporation engaged in carrying on any other business than owning, operating or managing a gas plant, electric plant or water system, which other business is not otherwise subject to the jurisdiction of the commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such gas plant, electric plant or water system, said corporation in respect to such other business shall not be subject to any of the provisions of this act and shall not be required to procure the consent or authorization of the commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of the commission in respect to the owning, operating, managing or controlling by such corporation of such gas plant, electric plant or water system, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such gas plant, electric plant or water system as distinguished from such other business. In any such case if the owning, operating, managing or controlling of such gas plant, electric plant or water system by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, the commission may by general rules exempt such corporation from making full reports and from the keeping of accounts as to such subsidiary and incidental business. (Laws 1913, p. 608.)

For matters relating to:
Uniform system of accounts, see Sec. 69-4.
Annual reports, see Secs. 69-6, 69-7.
Valuation proceedings, see Sec. 78.
Depreciation accounts, see Sec. 79.

**Sec. 70. Power of commission to stay increased rates.**— Whenever there shall be filed with the commission by any gas corporation, electrical corporation, water corporation or municipality any schedule stating a new rate or charge, or any new form of contract or agreement, or any new rule, regulation or practice relating to any rate, charge or service or to any general privilege or facility, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested gas corporation, electrical corporation, water corporation or municipality, but upon reasonable

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notice, to enter upon a hearing concerning the propriety of such rate, charge, form of contract or agreement, rule, regulation or practice, and pending such hearing and the decision thereon, the commission upon filing with such schedule, and delivering to the gas corporation, electrical corporation, water corporation or municipality affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, form of contract or agreement, rule, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, form of contract or agreement, rule, regulation or practice as would be proper in a proceeding initiated after the rate, charge, form of contract or agreement, rule, regulation or practice had become effective: *Provided*, that if any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding six months. At any hearing involving a rate sought to be increased after the passage of this act, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the gas corporation, electrical corporation, water corporation or municipality, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. (Laws 1913, p. 608.)

For matters relating to:
Filing and publication of schedules, see Sec. 69-11.
Power of Commission over rates in general, see Sec. 69-5.
Determination of just and reasonable rates, see Sec. 82.
Burden of proof upon party averse to Commission, see Sec. 124.
Similar provisions, see Secs. 48, 94.

The burden of proof justifying an increase in rates is upon the applicant (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125; 3 Mo. P. S. C. 403), but upon an attack on existing rates is upon complainant (3 Mo. P. S. C. 403). Burden of proof necessary to justify an increase in rates for natural gas from 40 cents to 60 cents per 1,000 cu. ft. (3 Mo. P. S. C. 403) and minimum charges for water (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125) not met.

**Sec. 71. Inspection of gas, water and electric meters.**—1. The commission shall appoint inspectors of gas and water meters, whose duty it shall be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all gas and water meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat or power, or the quantity of water, furnished by any person, corporation or municipality to or for the use of any person or persons and when found to be or made to be correct, the inspector shall seal all such meters and each of them with some suitable device, which device shall be recorded in the office of the secretary of state. (Laws 1913, p. 609.)



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2. No corporation, person or municipality shall furnish, set or put in use any gas or water meter which shall not have been inspected, proved and sealed by an inspector of the commission. (Laws 1913, p. 609.)

3. The commission shall appoint inspectors of electric meters whose duty it shall be, when required by the commission, to inspect, examine and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current used for light, heat or power by any person, corporation or municipality to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No corporation, person or municipality shall furnish, set or put in use any electric meter the type of which shall not have been approved by the commission. (Laws 1913, p. 609.)

4. Every gas corporation, electrical corporation, water corporation and municipality shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas, water and electric meters furnished for use by it, and by which apparatus every meter may be tested. (Laws 1913, p. 610.)

5. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same upon being so tested shall be found to be more than four per centum if an electric meter, more than two per centum if a gas meter or more than five per centum if a water meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the corporation or municipality, if the same on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this subsection, the expense of such inspection and test shall be borne by the consumer. (Laws 1913, p. 610.)

6. The commission may prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. (Laws 1913, p. 610.)

For matters relating to:
Distribution and supply, see Sec. 69-2.
Standards of service, see Sec. 69-3.
Equipment and appliances in general, see Sec. 69-5.
Inspections in general, see Sec. 69-8.
Valuation of property, see Sec. 78.
Determination of safe and adequate equipment, etc., see Secs. 82, 116.

**Sec. 72. Approval of incorporation and franchises; certificate.**—No gas corporation, electrical corporation or water corporation shall begin construction of a gas plant, electric plant or

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water system without first having obtained the permission and approval of the commission. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void. (Laws 1913, p. 610.)

For matters relating to:
Improvements and extensions, see Sec. 69-2.
Equipment and appliances, see Secs. 69-5, 116.
Determination of just and reasonable equipment, see Sec. 82.
Similar provisions, see Secs. 53, 96.

Additional certificates need not be secured for each extension made, although local permission must be secured (2 Mo. P. S. C. 1), as the only certificate required is the one before beginning construction (Ibid.) Local consent is a condition precedent to the granting of a certificate (2 Mo. P. S. C. 1). A municipality may install an electric utility without securing a certificate of public convenience and necessity (2 Mo. P. S. C. 442, P. U. R. 1915 D, 974), and franchise provisions requiring payment of portion of gross revenue to municipality by an electric utility not vitiated thereby (Ibid.) Utilities giving adequate service at reasonable rates are to be protected from competition (2 Mo. P. S. C. 640, P. U. R. 1916 A, 1007; 4 Mo. P. S. C. 518), but the existence of a utility furnishing inadequate acetylene lighting service does not preclude the granting of a certificate to another to furnish continuous electric light, heat and power service (Ibid.), and franchises may be granted under Sec. 9381, R. S. 1909, for furnishing electricity to the public from a transmission line (Ibid.)

**Sec. 73. Right to issue stocks, bonds and notes subject to regulation by state.**—The power of gas corporations, electrical corporations or water corporations to issue stocks, bonds, notes and other evidences of indebtedness and to create liens upon their property situated in this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe. (Laws 1913, p. 611.)

For matters relating to:
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 74-1.
Acquisition of stock in another company, see Sec. 74-2.
Power of Commission over issues of securities, see Sec. 75.
Recording of Commission's certificate, see Sec. 76.
Stock dividends, see Secs. 68-4, 76.
Security issues, in general, see Sec. 77.
Valuation, see Sec. 78.
Reorganizations, see Sec. 80.

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Similar provisions, see Secs. 54, 97.
Provisions of this law do not conflict with Sec. 2981, R. S. 1909 (4 Mo. P. S. C. 660, P. U. R. 1917 C, 17).

**Sec. 74. Approval of transfer of franchises.**—1. No gas corporation, electrical corporation or water corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this act, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to, the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value. (Laws 1913, p. 611, as repealed by new section Laws 1917, p. 436.)

2. No such corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, neither shall any street railroad corporation acquire the stock or bonds of any electrical corporation, unless, in either case, authorized so to do by the commission. Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation of any description, domestic or foreign, other than a gas corporation, electrical corporation or water corporation or street railroad corporation, shall, without the consent of the commission, purchase or acquire, take or hold, more than ten per centum of the total capital stock issued by any gas corporation, electrical corporation or water corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any gas corporation, electrical corporation or water corporation may, with the consent of the commission, acquire and hold the remainder of the capital stock of such gas corporation, electrical

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corporation or water corporation, or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this act shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation, electrical corporation or water corporation or shall be recognized as effective for any purpose. (Laws 1913, p. 611, as repealed by new section Laws 1917, p. 437.)

For matters relating to:
Power of state, see Sec. 73.
Power of Commission over issues of securities, see Sec. 75.
Recording of Commission's certificate, see Sec. 76.
Stock dividends, see Secs. 68-4, 76.
Security issues, in general, see Sec. 77.
Valuation, see Sec. 78.
Reorganizations, see Sec. 80.
Similar provisions, see Secs. 55, 98-1; 56, 98-2.

TRANSFER AND SALE. The transfer and sale of electric utilities (1 Mo. P. S. C. 102; 1 Mo. P. S. C. 105) and water utilities (1 Mo. P. S. C. 61) has been approved. The approval of this Commission is necessary to the valid transfer and sale of a utility owned by an individual (1 Mo. P. S. C. 61). Valuation placed upon a water system in a transfer and sale case to a municipality (2 Mo. P. S. C. 31), resulting in allowing a nominal sum to cover unexpired term of the franchise, but not for mere license privileges, or emergency service mains not properly a part of the property, or service mains extending outside the city and not in accord with franchise, or extensions made prior to lease by city to company (Ibid.) An application for the issuance of a mortgage (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538) approved. Unequal benefits to different properties covered by a mortgage do not preclude the issuance thereof (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538).

**Sec. 75. Approval of issues of stocks, bonds and other forms of indebtedness.**—A gas corporation, electrical corporation or water corporation organized or existing or hereafter incorporated under or by virtue of the laws of this state, may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its plant or distributing system, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income, or from any other moneys in the treasury of the corporation not secured or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness of such corporation, within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure

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was made: *Provided*, and not otherwise, that there shall have been secured from the commission an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes, or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidence of indebtedness, such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. Nothing herein contained shall prohibit the commission from giving its consent to the issue of bonds, notes or other evidence of indebtedness for the reimbursement of moneys heretofore actually expended from income for any of the aforesaid purposes, except maintenance of service or replacements, prior to five years next preceding the filing of an application therefor, if in the judgment of the commission such consent should be granted; provided application for such consent shall be made prior to January 1, 1914. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents and contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the commission apply said issue or any proceeds thereof to any purpose not specified in such order. Such gas corporation, electrical corporation or water corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or any other act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidence of indebtedness running for more than twelve months without the consent of the commission: *Provided, however*, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations, so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatsoever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. (Laws 1913, p. 612.)

For matters relating to:
Fees, see Sec. 21.
Power of state, see Sec. 73.

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Sale, lease, assignment, transfer, mortgage, etc., see Sec. 74-1.
Acquisition of stock in another company, see Sec. 74-2.
Recording of Commission's certificate, see Sec. 76.
Stock dividends, see Secs. 68-4, 76.
Security issues in general, see Sec. 77.
Valuation, see Sec. 78.
Reorganization, see Sec. 80.
Similar provisions, see Secs. 57, 98a.

Applications for the issuance of stock (1 Mo. P. S. C. 613), bonds (1 Mo. P. S. C. 16; 1 Mo. P. S. C. 23; 3 Mo. P. S. C. 390, P. U. R. 1916 D, 538), and notes (1 Mo. P. S. C. 258) have been approved, and a utility has been directed to increase its capital stock to cover a proposed bond issue (4 Mo. P. S. C. 660). Approval of issuance of securities requires a finding of necessity therefor for purposes set forth, but a valuation of applicant's property is not a prerequisite (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538). The same basis for determining value upon issue of securities is adopted as in a sale case, and an order approving the purchase price in a sale case is *prima facie* evidence of worth (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538). Statutory provisions relating to issuance of capital stock act as a check on bonded indebtedness of corporations (4 Mo. P. S. C. 660, P. U. R. 1917 C, 17), but provisions in a mortgage for future issues of bonds in excess of present capital stock does not create an indebtedness in excess of the capital stock where the bond issue is restricted to the capital stock (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538). Assumption of payment of certain bonds causes their inclusion in determining outstanding obligations (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538). Fluctuations in value after acquisition should not affect amount the purchasing company is entitled to for reimbursement purpose through a note issue, but items designated interest and discount, investigation of tax titles and taxes are deducted (1 Mo. P. S. C. 258). Issuance of bonds for preferred stock not approved (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538). The unequal application of bonds to different properties does not preclude their issuance (3 Mo. P. S. C. 390, P. U. R. 1916 D, 538).

**Sec. 76. Certificate of commission to be recorded; stock dividends prohibited.**—No gas corporation, electrical corporation or water corporation governed by the provisions of this act shall issue any stock, bonds, notes or other evidence of indebtedness, for money, property or services, either directly or indirectly, nor shall it receive any money, property or services in payment of the same, either directly or indirectly, until there shall have been recorded upon the books of such corporation or person the certificate of the commission herein provided for. No gas corporation, electrical corporation or water corporation governed by the provisions of this act shall declare any stock, bond or scrip dividend or divide the proceeds of the same of any stock, bond or scrip among its stockholders unless authorized by the commission so to do. (Laws 1913, p. 613.)

For matters relating to:
Power of state, see Sec. 73.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 74-1.
Acquisition of stock in another company, see Sec. 74-2.
Power of Commission over issues of securities, see Sec. 75.
Stock dividends, see Sec. 68-4.
Security issues in general, see Sec. 77.
Valuation, see Sec. 78.
Reorganizations, see Sec. 80.
Similar provisions, see Secs. 58-1, 99-1.

**Sec. 77. Power of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority void; penalties and forfeitures; state not liable.**—1. The commission shall have power to require gas corporations, electrical corporations and water corporations to account for the disposition of the proceeds of all sales of stocks, bonds, notes and other evidences of indebtedness, in such form and detail as it

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may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order. (Laws 1913, p. 614.)

2. All stock, and every bond, note or other evidence of indebtedness of a gas corporation, electrical corporation or water corporation issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock, and every bond, note or other evidence of indebtedness of a gas corporation, electrical corporation or water corporation, issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. (Laws 1913, p. 614.)

3. Every gas corporation, electrical corporation or water corporation which, directly or indirectly, issues or causes to be issued any stock or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the Constitution of this state, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order in excess of the amount in said order authorized for the purpose, is subject to a penalty of not less than five hundred dollars nor more than twenty thousand dollars for each offense. (Laws 1913, p. 614.)

4. Every officer, agent or employee of a gas corporation, electrical corporation or water corporation, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or to the Constitution of this state, or who, in any proceeding before the commission, knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation, which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing an issue of stock, or any bond, note or other evidence of indebtedness, or which results in the procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission, in any proceeding, tending in any way to influence the commission to make such an order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or bond, note or other evidence of indebted-

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ness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this act, negotiates, or causes the same to be negotiated, shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment. (Laws 1913, p. 614.)

5. No provision of this act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Missouri to pay or guarantee in any manner whatsoever, any stock or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this act. (Laws 1913, p. 615.)

6. All stocks and bonds, notes and other evidences of indebtedness issued by any public utility after this act takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of this act, shall be void, unless an order of the commission authorizing the issue of such stocks, bonds, notes or other evidences of indebtedness shall have been obtained from the commission prior to such issue. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 615.)

For matters relating to:
Power of state, see Sec. 73.
Sale, lease, assignment, transfer, mortgage, etc., see Sec. 74-1.
Acquisition of stock in another company, see Sec. 74-2.
Power of Commission over issues of securities, see Sec. 75.
Recording of Commission's certificate, see Sec. 76.
Stock dividends, see Secs. 68-4, 76.
Valuation, see Sec. 78.
Reorganization, see Sec. 80.
Similar provisions, see Secs. 59, 100.

Section 2981, R. S. 1909, not repealed by this Section (4 Mo. P. S. C. 660, P. U. R. 1917 C, 17).

**Sec. 78. Power of commission to ascertain valuation of property of gas, electrical and water corporations.**—1. The commission shall have the power to ascertain the value of the property of every gas corporation, electrical corporation and water corporation in this state and every fact which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every gas corporation, electrical corporation and water corporation. (Laws 1913, p. 615.)

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2. For the purpose of ascertaining the matters and things specified in this section, concerning the value of the property of gas corporations, electrical corporations and water corporations, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had the commission shall give the gas corporation, electrical corporation or water corporation affected thereby at least thirty days' notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All gas corporations, electrical corporations and water corporations affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The commission is empowered to resort to any other source of information available. The evidence introduced at such hearings shall be reduced to writing and certified under the seal of the commission. The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the gas corporation, electrical corporation or water corporation affected. Such findings shall be subject to review by any circuit court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or an officer, department or institution thereof, or any county, city or municipality or other body politic and the gas corporation, electrical corporation or water corporation affected may be interested whether arising under the provisions of this act or otherwise, and such findings, when so introduced, shall be conclusive evidence of the facts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any gas corporation, electrical corporation or water corporation subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and

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findings: *Provided*, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation. (Laws 1913, p. 616.)

For matters relating to:
Apportionment of value, expenses and return, see Secs. 69-13, 82—Return.
Valuation in sale case, see Sec. 74-1.
Valuation of franchises for security issues, see Sec. 75.
Valuation upon reorganization, see Sec. 80.
Valuation in rate cases, see Sec. 82.
Similar provisions, see Secs. 60, 101.

IN GENERAL. Valuations of electric (1 Mo. P. S. C. 378; 1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), gas (2 Mo. P. S. C. 189, P. U. R. 1915 B, 921; 2 Mo. P. S. C 311, P.U. R. 1915 C, 1017; 3 Mo. P. S. C. 403; 4 Mo. P. S. C. 346, P. U. R. 1917 B, 745) and water, (1 Mo. P. S. C. 378; 2 Mo. P. S. C. 31 — sale —; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 3 Mo. P. S. C. 447; 4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 4 Mo. P. S. C. 162, P. U. R. 1917 B, 679) utilities have been made. Valuation proceedings are necessary to the determination of the justness and reasonableness of rates (1 Mo. P. S. C. 130), including franchise rates (1 Mo. P. S. C. 664), together with an apportionment of value of property engaged in, and expenses and income incurred in different undertakings to the proper undertaking (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). Value is a mixed question of fact, judgment and law, depending upon the peculiar facts of each case (1 Mo. P. S. C. 468), and it is not to be assumed that the purchase price is identical with fair present value (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). A complete field inventory checked with utility's inventory is considered more reliable than a "horseback" inventory or investment cost (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), and detailed inventories, with unit costs applied, making allowances for contractor's profits and overhead expenses are desirable (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Vouchers showing amount paid for equipment given consideration in determining value (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), but fraudulent transfers of property have been disregarded (1 Mo. P. S. C. 468), and excessive, unreasonable or improvident expenditures or purchases may be disallowed (Ibid.) Estimate of value of "plant under construction" is adjusted to conform with actual cost (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624). Experts of this Commission are to make valuations and give conclusions thereon (1 Mo. P. S. C. 468), their testimony being carefully scrutinized (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). The Commission is not bound by agreements as to value (1 Mo. P. S. C. 468).

APPORTIONMENTS. In passing upon the justness and reasonableness of rates, the value of property, including boilers (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), of a public utility engaged in different undertakings is to be allocated (1) that useful to one service, (2) that useful to the other, (3) that useful to both—item 3 again allocated upon basis of use (1 Mo. P. S. C. 468). Apportionments of property between electric and water service on the basis of use, of equipment between electric, water and railway departments on the basis of average use of electricity, and of boiler plant on the basis of average use of steam (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512), of land between electric and gas service on relative area occupied by each (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), and certain expenses, such as cost of coal used by ice and electric department on basis of ¼ pound of coal to produce one pound of ice, office expenses, etc., on basis of gross revenue, liability insurance on basis of pay rolls and real and personal taxes on basis of present depreciated value (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512)—a detailed apportionment of expenses being preferable to lump sum assignments (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017)—have been made. Water rate-making cases have been held to necessitate apportionments between domestic and fire service (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512), and electric rate-making cases, apportionments between street lighting and commercial light and power (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512).

METHODS AND MEASURES. All evidence bearing on value is considered in rate cases—particularly original cost of construction, amount of permanent improvements and present as compared with original cost (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), with estimates of original cost and cost of reproduction determined separately (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Items not representing any real increase in investments (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), property acquired without cost, and deficits occurring in operation, are not considered in estimating original cost (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), nor is accrued depreciation to be deducted (Ibid.) when not covered by replacements (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). The improper inclusion of replacements

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and accrued depreciation (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), or insufficiency of evidence (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512), prevents an estimate of original cost. Present value in connection with cost of reproduction takes into consideration accrued depreciation (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), which must be given consideration in valuing boilers (Ibid.), and is best estimated by finding percentage condition, and next on the straight-line basis rather than the sinking-fund method (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679). Accrued depreciation of water mains estimated on assumed life of 100 years (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624). Book value alone is not a reliable index of the present value of a plant constructed piecemeal, but is given consideration (3 Mo. P. S. C. 403). An estimate of cost of a railway spur obtained from the railway's records has been considered correct (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), but plant accounts based on par value of stock exchanged therefor have been reduced to actual value (4 Mo. P. S. C. 162, P. U. R. 1917 B. 679). Items added as assets upon transfer and sale but representing no actual expenditure (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), items charged to improvement and credited to bond account, items credited to surplus but representing no assets, items representing bond discount and expense and property not used in serving the public, and unpaid items placed to materials and supplies and charged to surplus and transferred to plant account (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745) have been deducted from book value.

NONPHYSICAL ELEMENTS. Bond discount is not considered in estimating original cost (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679). Overhead allowances (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624) on land (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679—18%; 4 Mo. P. S. C. 346, P. U. R. 1917 B, 745—9%; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—9%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—8%; 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921) and other (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745—14%) or structural property (4 Mo. P. S. C. 346 P. U. R. 1917 B, 679—16%; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—15%; 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921—12.5%), in addition to contractor's profits (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745—10%; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—10%), including allowances for engineering (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—5%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—5%), interest for one-half period of construction (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—6%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—6%; 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921—6%), taxes and insurance (4 Mo. P. S. C. 140, P. U. R. 1917 B. 624; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—2%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—1½%; 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921—1.5%), legal and organization expenses (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—5%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—2%), omissions and contingencies (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017—3%; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956—2%) and promotion expenses (1 Mo. P. S. C. 378) are proper. Cost of pavement over mains is included in value only to the extent incurred (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745; 4 Mo. P. S. C. 162, P. U. R. 1917 B, 679; 3 Mo. P. S. C. 403), no allowance being made for pavements laid subsequent to laying of mains (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624).

TANGIBLE PROPERTY. Basis of calculation in a rate case is fair present value of public utility property used and useful for the public (1 Mo. P. S. C. 468), but property not used or useful in the public service is not valued (Ibid.), although averred to be held as a reserve when not used for several years (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), as supplies for electric wiring and merchandise sale (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), or coal gas equipment of a water gas plant on the theory that conditions may so change as to render said equipment useful (2 Mo. P. S. C. 189, P. U. R. 1915 B, 921); but two separate generating units and boilers have been considered necessary for continuous electric service by a steam generating plant (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24), and the use of an artificial gas plant for standby service entitles a natural gas distributing utility to a return on its value (3 Mo. P. S. C. 403). Money expended in the purchase of office furniture (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24) and meters are part of the investment of the company on which it is entitled to earn a return (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 4 Mo. P. S. C. 162 P. U. R. 1917 B, 679); but the saving effected through nearness to a switch owned by an independent party is not to be capitalized (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Electric generator of obsolete type valued at approximately $14.50 per kw. (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). The basis of the fair present value of land is its present worth, not its cost (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956)—market value and use being considered (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745). An allowance of 30 cents per cu. yd. has been made for an embankment (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624). Considerable weight is given estimates of value of real estate by one familiar with land values in the locality (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), and estimates of value of land by Commission's engineer based on information from parties who afterwards testified under oath to a much higher value have not been accepted (2 Mo. P. S. C. 189, P. U. R. 1915 B, 92). Careful detailed appraisals of the value of buildings given weight (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). Allowances should be made for working capital in valuation proceedings (1 Mo.

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P. S. C. 378), and amounts of $1,000, in addition to supplies on hand (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), $6,500, in addition to stores and supplies ($5,128) (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), $30,000, one-twelfth annual income (3 Mo. P. S. C. 403), and $7,500, one-tenth annual gross revenue (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624) have been allowed.

INTANGIBLE PROPERTY. The fact that a utility is a going concern is to be given consideration in a rate case (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 4 Mo. P. S. C. 162, P. U. R. 1917 B, 679; 4 Mo. P. S. C. 346, P. U. R. 1917 B, 745; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 1 Mo. P. S. C. 468), but a separate allowance therefor is not made (Ibid.) Going value is not to be based on the past deficit method (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745), where early losses have been recouped (1 Mo. P. S. C. 468), or the plant is operating at a loss under voluntary rates (3 Mo. P. S. C. 403), as losses and deficits incurred in developing the business are not property (3 Mo. P. S. C. 403). *Quaere* as to capitalizing efficient office trained force under going value (1 Mo. P. S. C. 468). Franchise value is not considered in a rate case (1 Mo. P. S. C. 468) other than to the extent of the amount paid the state or some political subdivision therefor (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), a separate allowance therefor not being made where the item appears to have been included in overhead charges (Ibid.) Valuations of easements should be based on experience of others in obtaining like easements in the same locality, and not on purchase of property (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679).

**Sec. 79. Power of commission to require depreciation account of gas, electrical and water corporations.**—The commission shall have power, after hearing, to require any or all gas corporations, electrical corporations and water corporations to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of such corporation, person or public utility. Each gas corporation, electrical corporation and water corporation shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund. (Laws 1913, p. 617.)

For matters relating to:
Uniform system of accounts, see Sec. 69-4.
Annual reports, see Secs. 69-6, 69-7.
Examination and correction of accounts, see Sec. 69-9.
Depreciation in value, see Sec. 78.
Similar provisions, see Secs. 61, 102.

**Sec. 80. Reorganizations.**—1. Reorganizations of gas corporations, electrical corporations and water corporations shall be subject to the supervision and control of the commission, and no such reorganization shall be had without the authorization of the commission. (Laws 1913, p. 617.)

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission, which, in making its determinations, shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash: *Provided,*

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*however*, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 617.)

For matters relating to:
Security issues, see Secs. 73-77.
Value, see Secs. 78, 82.
Apportionment of value, see Sec. 69-13.
Similar provisions, see Secs. 62, 103.

**Sec. 81. Complaints as to quality and price of gas, water and electricity; investigation by commission; forms of complaints.** Upon the complaint in writing of the mayor or the president or chairman of the board of aldermen, or a majority of the council, commission or other legislative body of any city, town, village or county within which the alleged violation occurred, or by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers of such gas, electricity or water, as to the illuminating power, purity, pressure or price of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or price of electricity sold and delivered in such municipality, or the purity, pressure or price of water, the commission shall investigate as to the cause of such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas, electricity or water, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas, electricity or water. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any. (Laws 1913, p. 618.)

For matters relating to:
Complaints, how made in general, see Secs. 107, 108.
Similar provisions, see Secs. 43-1, 46-1, 90-1, 92-1.
Consult specific sections.

**Sec. 82. Notice and hearing; order fixing price of gas, water or electricity, or requiring improvement.**—Before proceeding under a complaint presented as provided in this article, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission as to any matter of which complaint may be made as provided in this article, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it.

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After a hearing and after such an investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission within lawful limits may, by order, fix the maximum price of gas, electricity or water, not exceeding that fixed by statute to be charged by such corporation or person, for the service to be furnished; and may order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, in the distribution or supply of water, or in the methods employed by such person or corporation, as will in its judgment be adequate, just and reasonable. The price fixed by the commission under this article shall be the maximum price to be charged by such corporation, person or municipality for gas, electricity or water for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years, except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of gas, electricity or water to be thereafter charged. In determining the price to be charged for gas, electricity or water the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. (Laws 1913, p. 618.)

For matters relating to:
Definitions, see Sec. 2.
Power of Commission in general, see Sec. 69.
Power of Commission over service and rates in general, see Sec. 69-5.
Rate schedules, see Sec. 69-12.
Power of Commission to stay increased rates, see Sec. 70.
Complaints, how made, see Secs. 107, 108.
Hearings, how conducted, see Sec. 109.
Rehearing before Commission, see Sec. 110.
Commission to fix units of service, see Sec. 126.
Similar provisions, see Sec. 46-2, 47-1, 92-2, 93-1.

SERVICE, including RULES AND REGULATIONS, EQUIPMENT AND FACILITIES, SAFETY IN OPERATION and QUALITY OF SERVICE, see Sec. 69-5.

RATES IN GENERAL. Temporary injunction restraining enforcement of Commission's order fixing rates justified on ground that consumers may be protected by an injunction bond (231 Fed. 331). A Federal court has jurisdiction to prevent state utility commissions from enforcing unreasonably low and confiscatory rates for natural gas of a company operating in three states under a receivership (234 Fed. 152). A mere reduction in rates does not warrant conclusion that prior rates were unlawful justifying reparation (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645). An inquiry as to what are reasonable rates is different from ascertaining what rates are in force (2 Mo. P. S. C. 177, P. U. R. 1917 B, 908). Electric energy furnished interrelated corporations should be metered and charged for at regular schedule rates (2 Mo. P. S. C. 225, P. U. R. 1915 C, 114). Franchise rates are binding until set aside under legislative authority (1 Mo. P. S. C. 664). Rendition of service free permitted to stand in view of franchise provisions (1 Mo. P. S. C. 664), as are contracts for one year flat rate service, made prior to effective date of P. S. C. L. (1 Mo. P. S. C. 130). Franchise construed and found to grant quarterly meter rates to domestic consumers (1 Mo. P. S. C. 664). Rates should be reasonable to the public and at the same time yield a reasonable return to the utility (1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564), and exorbitant rates by utilities exploiting natural sources of power are not justified (1 Mo. P. S. C. 468). Existence of much lower rates for service in cities of like population is some evidence of the unreasonableness of existing rates (269 Mo. 525, 191 S. W. 412, affirming 2 Mo. P. S. C. 189),

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but the Commission may not establish rates for service on the ground that a reduction in a particular city would equalize conditions so as to build up a profitable patronage permitting the company to earn a return equal to that in another city where the new rates are in force (231 Fed. 331).

JURISDICTION. Regulation of rates for service is a matter of state and not municipal concern (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576) to be delegated only through plain and unmistakable terms (1 Mo. P. S. C. 130) and the state, through this Commission, has authority to regulate rates and charges provided by franchise contracts between municipalities and public utilities (Ibid.) irrespective of municipal ordinances fixing rates, not enacted in statutory procedure (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125), or contracts, in so far as objections entered thereto by municipality are concerned (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624), or charter and ordinance provisions adopted under authority of Secs. 20 to 25, Art. IX Mo. Const. (4 Mo. P. S. C. 412, P. U. R. 1917 B, 576). A Commission order operating on rates charged by a domestic gas corporation distributing gas purchased from an interstate corporation held not to interfere with interstate commerce (234 Fed. 152).

KINDS OF RATES. Reasonable minimum charges, to distribute the total cost of individual service between consumers (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125), based on the cost of readiness to serve (1 Mo. P. S. C. 564; 1 Mo. P. S. C. 191)—the average cost of serving consumers in the several classes, including the average consumption per month of minimum consumers (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 2 Mo. P. S. C. 177, P. U. R. 1915 B, 908)—are proper; but vague and meager evidence has been held insufficient to pass upon reasonableness of proposed minimum charges (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125). A minimum charge in excess of the maximum franchise meter rate is not justified by further franchise provision permitting a maximum flat rate equal to the minimum charge (2 Mo. P. S. C. 177, P. U. R. 1915 B, 908). Although uniform and reasonable flat rates have been permitted to stand, a meter rate is recognized as the most fair and equitable basis for charges (1 Mo. P. S. C. 191), and changes from flat to meter rates are desirable (1 Mo. P. S. C. 242; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017) to conserve a limited supply (3 Mo. P. S. C. 576) The arbitrary change of consumers from flat to metered service is unreasonable (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125), but a rule providing for the change of consumers wasting service from flat to metered service (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125) is proper. Schedules of rates providing for flat and metered service leaves the option with the consumer (2 Mo. P. S. C. 235, P. U. R. 1915 C, 125). Meter rental (4 Mo. P. S. C. 28; 1 Mo. P. S. C. 355; 1 Mo. P. S. C. 564) over and above the minimum charge (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956) is unlawful.

PARTICULAR UTILITIES. In General. The justness and reasonableness of rates for electric (1 Mo. P. S. C. 355; 1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 177, P. U. R. 1915 B, 908; 2 Mo. P. S. C. 225; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 3 Mo. P. S. C. 384; 3 Mo. P. S. C. 434; 4 Mo. P. S. C. 245; 4 Mo. P. S. C. 346; 4 Mo. P. S. C. 332; street lighting 2 Mo. P. S. C. 122; 2 Mo. P. S. C. 581), gas (2 Mo. P. S. C. 189; 3 Mo. P. S. C. 403), and water service (1 Mo. P. S. C. 355; 1 Mo. P. S. C. 664, 2 Mo. P. S. C. 48; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; 4 Mo. P. S. C. 140; 4 Mo. P. S. C. 161; P. U. R. 1917 B, 679; 4 Mo. P. S. C. 412; 4 Mo. P. S. C. 487; 4 Mo. P. S. C. 631; fire hydrant rental, 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512; minimums only, 1 Mo. P. S. C. 191; 2 Mo. P. S. C. 235) have been passed upon.

Electric. Consideration given cost of constructing, maintaining and operating a transmission line and the smallness of population (4 Mo. P. S. C. 332), tendency of continuous service to disrupt flat rate schedule (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24), lower rates for power and possibly daytime use than for lighting (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017), low rates for cooking not throwing the burden upon other consumers (Ibid.) and ratio between rates for power service and residence and business service (2 Mo. P. S. C. 581, P. U.R. 1915 F, 512), in passing upon electric rates. Minimum electric rates of from 50 cents (3 Mo. P. S. C. 434, P. U. R. 1916 E, 308) to $1.00 per month (4 Mo. P. S. C. 332) in general, and $1.00 for business (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 2 Mo. P. S. C. 581; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956) and 75 cents for residence (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) service have been found reasonable; whereas minimum charges varying from nothing to $25.00 per month have been held unreasonable (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956). Electric service for business and residence service on the same premises should be furnished through a single meter where the block service rates are the same (3 Mo. P. S. C. 384, P. U. R. 1916 D, 673) with the application of the minimum monthly business charge (Ibid.) Electric rates for 221 60-watt Mazda lamps on a modified "Philadelphia moonlight schedule" of $250 per month (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), and an annual charge of $55 for each 400-candle power nitrogen filled incandescent street light (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) held proper, but rates for "white-way lighting" were not prescribed where the evidence was insufficient and the question not at issue (Ibid.) Electric service for show windows and sign lighting service ordered furnished under optional flat

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rates or business meter rates (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512). Franchise provisions covering street lighting held not to include service for lighting court house park (2 Mo. P. S. C. 678). Where two electric rate schedules cover the same class of consumers, the consumer should be afforded reasonable assistance in making his choice of schedules (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645), but only one check or change in the application of different rate schedules to a given consumer during the course of a year need be made (Ibid.) Statements for electric service should be in accord with changes in schedule immediately upon effect (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645; 4 Mo. P. S. C. 540, P. U. R. 1917 C, 33), and consumers likely to be affected should be notified of such changes (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645) and where the assessed demand affects rates, it should be carefully checked in the beginning and accurately ascertained thereafter—normal peak demand period of the year to govern (Ibid.) Electric rates of 20 cents per kw. hr. with a discount of 25% for prompt payment, with reasonable minimum charges, permitted to stand where the utility is not meeting operating expenses (4 Mo. P. S. C. 245).

GAS. Just and reasonable maximum gas rates of $1.50 per 1,000 cu. ft. for first 10,000 cu. ft. and $1.40 for all in excess thereof, with a minimum monthly charge of 75 cents found proper (269 Mo. 525, 191 S. W. 412, P. U. R. 1917 C, 581, affirming 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921); whereas a proposed increase of from 40 to 60 cents per 1,000 cu. ft. in rates for natural gas found not justified (3 Mo. P. S. C. 403).

WATER. Comparison of water rates with a nearby city of 3,000 held not to justify a reduction of from 40 to 30 cents per thousand gallons to some twenty-five consumers (4 Mo. P. S. C. 28) a minimum charge of $1 for water service through a 5-8" meter (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679), and of $1.25 for a utility not earning operating expenses (4 Mo. P. S. not C. 28) has been found reasonable. Rates for water service to individual consumers may increased to make up a deficit due to fire hydrant service (1 Mo. P. S. C. 355). Annual fire be hydrant rental of $45 each for 117 fire hydrants found reasonable, additional fire hydrants to be furnished at $30 per year each (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512).

PAYMENT. Public utilities may protect themselves in the payment of rates for service rendered by the exaction of a cash deposit or personal guaranty (1 Mo. P. S. C. 130; 1 Mo. P. S. C. 664; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 4 Mo. P. S. C. 162, P. U. R. 1917 B, 679) of one billing period plus thirty days' consumption (4 Mo. P. S. C. 28; 4 Mo. P. S. C. 346, P. U. R. 1917 B, 745) or twice an average monthly bill (1 Mo. P. S. C. 564), but not an advance payment of minimum bills at the beginning of each quarter (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679); or may secure the prompt payment of such charges by giving a discount for prompt payment (1 Mo. P. S. C. 564; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) of 10% (Ibid.) and 25% (4 Mo. P. S. C. 245 —— that a utility barely making operating expenses may collect charges) but not a discount in the nature of discount for quantity (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017) or discounts of 20% and 10% on bills paid by the 5th and 10th, respectively, with discontinuance of service if not paid by the 12th (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) or imposition of a penalty for failure to pay promptly (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745; 1 Mo. P. S. C. 564); or may force payment by the discontinuance of service upon failure to pay (1 Mo. P. S. C. 564; 2 Mo. P. S. C. 254, P. U. R. 1915 C, 138; 4 Mo. P. S. C. 28), after forty-eight hours' notice (2 Mo. P. S. C. 254, P. U. R. 1915 C, 138) or after three days' notice, on thirty days' delinquency (1 Mo. P. S. C. 564), and the exaction of a charge of $1 for restoring service (2 Mo. P. S. C. 254, P. U. R. 1915 C, 138); but a discontinuance of service is not justified by refusal to pay a disputed bill (4 Mo. P. S. C. 28) or outside account (2 Mo. P. S. C. 12). Exercising a discretion as to whether or not to exact a cash deposit or personal guaranty, at the option of the consumer, is not discriminatory (1 Mo. P. S. C. 130).

BURDEN OF PROOF, see Sec. 70.

RETURN. IN GENERAL. While the public should pay no more than the services are worth (1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564) and should not be held to guarantee six per cent interest on the purchase price of land held unproductive for a number of years, nor amounts paid for taxes, interests and discounts and investigation of titles (1 Mo. P. S. C. 258), a public service utility is entitled to a just (1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956), and even liberal (1 Mo. P. S. C. 468), return upon the reasonable value of its property at the time of use by the public, and its earnings should cover reasonable operating expenses, provide for depreciation and contingencies and a reasonable return on fair present value (1 Mo. P. S. C. 564)—the rate of return to be determined from facts of each case (1 Mo. P. S. C. 468). The margin of profit should be the same for all consumers (1 Mo. P. S. C. 564). Annual income and expenses approximated from available ten months' figures (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512). Under abnormal and unique conditions just and reasonable rates do not always yield an adequate return (3 Mo. P. S. C. 403; 4 Mo. P. S. C. 28), as where larger returns lie in reducing expenses and minimizing loss and waste (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) or where the rates charged curtail consumption (2 Mo. P. S. C. 189, P. U. R. 1915 B, 921), and an order reducing such rates that



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a test might be had to raise the return through increased consumption (269 Mo. 525, 191 S. W. 412, affirming 2 Mo. P. S. C. 189) has been sustained, but on the other hand, prescribed rates, yielding a reasonable return with economy in management, have been increased in view of increased operating expenses after a six months' test (2 Mo. P. S. C. 225, P. U. R. 1915 C, 114). No allowance made in a rate case for amortization of bond discount (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624; 1 Mo. P. S. C. 468), but an allowance for amortization of expenses incurred in a rate case has been made (1 Mo. P. S. C. 468; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017).

OPERATING EXPENSES. Only just and reasonable operating expenses are allowable against the public in rate-making cases, and charges by holding companies for commissions (1 Mo. P. S. C. 468) or managerial or outside services (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017; 1 Mo. P. S. C. 468) should be reasonable—as $250 for nonresident office expenses of a water utility valued at $500,000 (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624)—and contract charges of excessive amounts for natural gas furnished by a supplying company to a distributing company (3 Mo. P. S. C. 403) have been disregarded. Expenses in securing new business should be limited to reasonable amounts (1 Mo. P. S. C. 468). Allowances of $2,000 for operation of a filtration plant by a water utility valued at $500,000 (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624) and $10,765 for an electric plant valued at $58,000 (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017) have been held proper as operating expenses. While savings effected are factors in economical management (2 Mo. P. S. C. 225, P. U. R. 1915 C, 114), they are not considered an operating expense (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745). Interest on borrowed money used in the purchase of a public utility is not an operating expense but considered as part of the return (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24). Before revenue is distributed as dividends, amounts should be set aside to cover depreciation and contingencies (1 Mo. P. S. C. 468), and maintained, but not on the theory of reimbursement of investor (3 Mo. P. S. C. 403), as to make reservations for surplus and contingencies is a wise business policy resulting to the benefit of the public (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956); and allowances of 2% (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624) and 3% (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) for water utilities, and 5% (1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564; 2 Mo. P. S. C. 122, P. U. R. 1915 A, 956; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) and 3%, in view of additional allowances under operating expenses (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017) for electric utilities to cover surplus, contingencies and depreciation have been made.

REASONABLENESS. A net return of at least seven per cent for electric service is reasonable (1 Mo. P. S. C. 468; 1 Mo. P. S. C. 564; 2 Mo. P. S. C. 581, P. U. R. 1915 F, 512), and returns of 7½ per cent (2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017) and 8% (2 Mo. P. S. C. 122, P. U. R. 1915 A, 956) have been allowed; but a return of 25% is unjust and unreasonable (2 Mo. P. S. C. 581, P. U. R. 1915 F, 512) and rates yielding 7% in addition to 4% for depreciation have been reduced (4 Mo. P. S. C. 346, P. U. R. 1917 B, 745). The unreasonableness of rates yielding between 8% and 18%, depending on allowances for operating expenses, may not be maintained by the utility (4 Mo. P. S. C. 509, P. U. R. 1917 C, 24). A net return of 7% considered proper for a water utility (4 Mo. P. S. C. 140, P. U. R. 1917 B, 624) and rates yielding between 5.70% and 6.12% (Ibid.) or 6.1% in addition to 2% for surplus and contingencies (4 Mo. P. S. C. 162, P. U. R. 1917 B, 679) are not unjust or unreasonable to the public, and a reduction in rates not yielding 7% has been refused (4 Mo. P. S. C. 631, P. U. R. 1917 D, 224). While of opinion that a gas utility is entitled to a net return of 7.5%, rates yielding a less return—5.96, 5.63 and 5.71%—in previous years are reduced where they are considered so high as to unreasonably curtail consumption (2 Mo. P. S. C. 189, P. U. R. 1915 B, 921; affirmed 269 Mo. 525, 191 S. W. 412, P. U. R. 1917 C, 531), and inadequate returns, occasioned by unreasonable operating expenses—excessive charges by supplying to distributing gas company—are not to be remedied by increasing the cost to the consumer (3 Mo. P. S. C. 403).

**Sec. 83. Forfeiture for noncompliance with order.**—Every gas corporation, electrical corporation and water corporation, and the officers, agents and employees thereof shall obey, observe and comply with every order and decision of the commission under authority of this act so long as the same shall be and remain in force. Any such person or corporation, or any officer, agent or employee thereof, who knowingly fails or neglects to obey or comply with such order or decision, or any provision of this act, shall forfeit to the state of Missouri not to exceed the sum of one thousand dollars for each offense. Every distinct violation of any such order or decision of this act shall be a separate and distinct

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offense, and in case of a continuing violation each day shall be deemed a separate and distinct offense. (Laws 1913, p. 619.)

For matters relating to:
Summary proceedings, see Sec. 84.
Similar provisions, see Secs. 63, 104.

**Sec. 84. Summary proceedings.**—Whenever the commission shall be of the opinion that a gas corporation, electrical corporation or water corporation or municipality is failing or omitting or about to fail or omit to do anything required of it by law or by order or decision of the commission or is doing or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order or decision of the commission, it shall direct the general counsel to the commission to commence an action or proceeding in any circuit court of the state of Missouri in the name of the commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunction. The general counsel to the commission shall thereupon begin such action or proceeding by a petition to such court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time not exceeding thirty days after service of a copy of the petition within which the gas corporation, electrical corporation, water corporation or municipality complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations, as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of the general counsel to the commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief. (Laws 1913, p. 619.)

For matters relating to:
Service in general, see Sec. 69-5.
Equipment and appliances, see Secs. 69-2, 69-3, 69-5, 82, 116.
Similar provisions, see Secs. 64, 105.

Except to initiate injunction proceedings, this Commission may not provide injunctive relief (2 Mo. P. S. C. 1). The Commission may enforce compliance with franchise provisions hereunder (1 Mo. P. S. C. 130).

**Sec. 85. Defense in case of excessive charges for gas, water or electricity.**—If it be alleged and established in an action brought in any court for the collection of any charge for gas, electricity or water that a price has been demanded in excess of that fixed by the commission or by statute, in the municipality wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action. (Laws 1913, p. 620.)

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## ARTICLE V.

### PROVISIONS RELATING TO TELEGRAPH AND TELEPHONE LINES AND TO TELEPHONE AND TELEGRAPH CORPORATIONS.

Section 86. Application of article.
87. Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; delivery of telephone and telegraph messages.
88. Rate schedules.
89. Liability for loss or damage caused by violation of this act.
90. General powers and duties of commission in respect to telegraph corporations and telephone corporations.
91. Reports of telegraph corporations and telephone corporations.
92. Investigations by commission.
93. Rates, rentals, service and physical connections.
94. Charges for short and long distance service; power of commission to stay increased rate.
95. Power of commission to order repairs or changes.
96. Franchises and privileges.
97. Right to issue stocks, bonds and notes is subject to regulation by state.
98. Transfer and ownership of stock.
98a. Approval of issues of stocks, bonds and other forms of indebtedness.
99. Certificate of commission to be recorded; stock dividends prohibited.
100. Power of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority, void; penalties and forfeiture; state not liable.
101. Power of commission to ascertain valuation of property of telegraph corporations and telephone corporations.
102. Power of commission to require depreciation account of telegraph corporations and telephone corporations.
103. Reorganization.
104. Forfeiture; penalties.
105. Summary proceedings.
105a. Powers of commission relating to other utilities made applicable to heating companies.

**Sec. 86. Application of article.**—The provisions of this article shall apply to communication by telegraph or telephone between one point and another within the state of Missouri and to every telegraph corporation and telephone corporation. (Laws 1913, p. 620.)

For matters relating to:
Definitions, see Sec. 2.
Jurisdiction, see Sec. 16.

**Sec. 87. Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; delivery of telephone and telegraph messages.**—1. Every telegraph corporation and every telephone corporation shall furnish and provide with respect to its business such instrumentalities and facilities as

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shall be adequate and in all respects just and reasonable. All charges made and demanded by any telegraph corporation or telephone corporation for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful. (Laws 1913, p. 621.)

For matters relating to:
Similar provisions, see Secs. 27, 68-1.
Consult specific sections.

2. No telegraph corporation or telephone corporation shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by telegraph or telephone or in connection therewith, except as authorized in this act, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by telegraph or telephone under the same or substantially the same circumstances and conditions. (Laws 1913, p. 621.)

For matters relating to:
Effect of existing contracts, see Sec. 87-3.
Deviation from schedule prohibited, see Sec. 88-2.
Free or reduced rate service, see Sec. 88-3.
Power of Commission to determine just and reasonable rates see Sec. 93-1.
Power of Commission to determine just and reasonable joint rates, see Sec. 93-3.
Rates for long and short distance service, see Sec. 94.
Similar provisions, see Secs. 33, 68-2.

The acceptance of a franchise by a public utility carries the duty of furnishing service without discrimination (2 Mo. P. S. C. 531). All unjust discriminations in rates are unlawful (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), as equality of rates should be undeviatingly maintained (2 Mo. P. S. C. 531); but a reasonable classification of telephone subscribers (2 Mo. P. S. C. 531), with the application of different rates to the different classes, provided the classification is proper and adequate service rendered (1 Mo. P. S. C. 253), as a classification of rural subscribers into those desiring local service and those desiring local and long distance service (3 Mo. P. S. C. 336), is lawful. Power of the state under Art. XII, Sec. 5, to prevent discriminations infringing on equal rights of individuals or militating against well-being of the state is paramount to individual contract rights (2 Mo. P. S. C. 531). The doctrine of estoppel cannot be invoked to permit unjust discrimination (2 Mo. P. S. C. 531). Except as otherwise indicated, contracts granting lower than regular telephone rates (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), free telephone service to the city and public schools in return for use of streets and alleys, in the absence of franchise requirement (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), reduced telephone rates to officers of the company (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), lower rates to professional men, although prescribed by ordinance (2 Mo. P. S. C. 81), combination telephone rates for business and residence service (4 Mo. P. S. C. 588), different charges to stockholders (3 Mo. P. S. C. 426; 1 Mo. P. S. C. 127), including furnishing service free to some stockholders (2 Mo. P. S. C. 531), and lower rates to subscribers furnishing equipment, as boxes (1 Mo. P. S. C. 405) or wiring, etc. (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), but not when open to all (2 Mo. P. S. C. 81), have been considered unlawful discriminations. Unknowingly permitting a nonsubscriber to make a call does not constitute discrimination (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044), nor does the exacting of boarding and rooming house rates from private residences having two or more student boarders or roomers (—— Mo. ——, 195 S. W. 741, reversing 2 Mo. P. S. C. 256, P. U. R. 1915 C, 366). Alleged discrimination in toll rates fails where defendant has naught to do with the toll charges (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044).

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3. No telegraph corporation or telephone corporation shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided*, that messages by telegraph or telephone may be classified into day, night, repeated, unrepeated, commercial, press, government and such other classes as are just and reasonable and different rates may be charged for the different classes of messages. (Laws 1913, p. 621.)

For matters relating to:
Connecting lines, see Sec. 87-5.
Power of Commission to determine just and reasonable service, see Sec. 93-2.
Power of Commission to prescribe physical connection, see Sec. 93-3.
Similar provisions, see Secs. 34, 68-3.

The Commission is vested with jurisdiction to require adequate service without discrimination by telegraph utilities (4 Mo. P. S. C. 557, P. U. R. 1917 B, 932), and similar toll service is to be furnished rural subscribers of telephone utilities as is furnished subscribers within the initial rate area (4 Mo. P. S. C. 525), as equality of service should be undeviatingly maintained (2 Mo. P. S. C. 531).

4. Nothing in this act shall be construed to prevent any telegraph corporation or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect or upon the taking effect of any schedule or schedules of rates subsequently filed with the commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts: *Provided, however*, that when any such contract or contracts are or become terminable by notice, the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telegraph corporation or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph corporation or telephone corporation as and when directed by such order. (Laws 1913, p. 621.)

Telephone and telegraph utilities may lawfully furnish railroads free or reduced service for corporate use, under prior existing contracts (C. R. No. 12, July 31, 1914). This subsection protects only previously valid and enforceable contracts (2 Mo. P. S. C. 531), the validity of contracts made prior to effective date of public service commission law being tested by common law principles (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), and telephone utility contracts establishing unreasonable rates, permitting unjust discrimination or inimicable to the public interest (2 Mo. P. S. C. 531; 3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), such as sale contract terms providing for free service to stockholders of the vendor company (2 Mo. P. S. C. 531) or contracts covering long-term-low-rate telephone service to certain stockholders, directors and officers (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), being void, are not a subject of impairment by subsequent repugnant legislation. Power of the state under Art. XII, Sec. 5, to prevent discrimination infringing on equal rights of individuals or militating against well-being of the state is paramount to individual contract rights (2 Mo. P. S. C. 531).

5. Every telegraph corporation and telephone corporation operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telegraph or telephone corporation with whose line a physical connection may have been made. (Laws 1913, p. 622.)

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For matters relating to:
Discrimination in general, see Sec. 87-3.
Physical connections, see Sec. 93-3.
Similar provisions, see Sec. 37.

6. The commission shall have power to provide the limits within which telegraph and telephone messages shall be delivered without extra charge. (Laws 1913, p. 622.)

For matters relating to:
Power of Commission to prescribe just and reasonable rates, see Sec. 93-1.
Power of Commission to prescribe just and reasonable joint rates, see Sec. 93-3.
Similar provision, see Sec. 38-3.

**Sec. 88. Rate schedules.**—1. Every telegraph corporation and every telephone corporation shall print and file with the commission schedules showing the rates, rentals and charges for service of each and every kind by or over its line between points in this state and between each point upon its line and all points upon every line leased or operated by it and between each point upon its line or upon any line leased or operated by it and all points upon the line of any other telegraph or telephone corporation whenever a through service or joint rate shall have been established between any two points. If no joint rate over a through line has been established the several corporations in such through line shall file with the commission the separately established rates and charges applicable where through service is afforded. Such schedule shall plainly state the places between which telephone or telegraph service, or both, will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in anywise change, affect or determine any or the aggregate of the rates, rentals or charges for the service rendered. Such schedule shall be plainly printed and kept open to public inspection. The commission shall have the power to prescribe the form of every such schedule and may from time to time prescribe, by order, changes in the form thereof. The commission shall also have power to establish rules and regulations for keeping such schedules open to public inspection and may from time to time modify the same. Every telegraph corporation and telephone corporation shall file with the commission as and when required by it a copy of any contract, agreement or arrangement in writing with any other telegraph corporation or telephone corporation or with any other corporation, association or person relating in any way to the construction, maintenance or use of a telegraph line or telephone line or service by or rates and charges over or upon any such telegraph line or telephone line. (Laws 1913, p. 622.)

For matters relating to:
Changes in rates, see Sec. 88-2.
Free or reduced rate service, see Sec. 88-3.
Power of Commission to determine just and reasonable rates, see Sec. 93-1.
Power of Commission to determine just and reasonable joint rates, see Sec. 93-3.
Deviation from schedule rates prohibited, see Sec. 88-2.
Similar provisions, see Secs. 29, 69-12.

Regulations prescribing the form and governing the filing and publication of rate schedules of telephone corporations (G. O. No. 1, Cir. No. 3) have been adopted. Judicial notice

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is taken of rate schedules on file (2 Mo. P. S. C. 531). Failure to file a rate schedule continues in force the rate effective on effective date of the Public Service Commission law (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044). Complaint for failure to file rate schedule dismissed upon showing as to ignorance of the law (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044).

2. Unless the commission otherwise orders no change shall be made in any rate, charge or rental, or joint rate, charge or rental which shall have been filed by a telegraph corporation or telephone corporation in compliance with the requirements of this act, except after thirty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rate, charge or rental shall go into effect; and all proposed changes shall be shown by filing new schedules or shall be plainly indicated upon the schedules filed and in force at the time and kept open to public inspection. The commission for good cause shown may allow changes in rates, charges or rentals without requiring the thirty days' notice, under such conditions as it may prescribe; all such changes shall be immediately indicated upon its schedules by such telegraph corporation or telephone corporation. No telegraph corporation or telephone corporation shall charge, demand, collect or receive a different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time. Nor shall any telegraph corporation or telephone corporation refund or remit directly or indirectly any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are specified in its schedule filed and in effect at the time and regularly and uniformly extended to all persons and corporations under like circumstances for a like or substantially similar service. (Laws 1913, p. 622.)

For matters relating to:
Discrimination, see Sec. 87-2.
Publication and filing of schedules, see Sec. 88-1.
Free or reduced rate service, see Sec. 88-3.
Power of Commission to determine just and reasonable rates, see Sec. 93-1.
Power of Commission to determine just and reasonable joint rates, see Sec. 93-3.
Similar provisions, see Secs. 31, 35-1, 69-12.

Records showing compliance with rate schedules on file should be kept (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044).

3. No telegraph corporation or telephone corporation subject to the provisions of this act shall, directly or indirectly, give any free or reduced service, or any free pass or frank for the transmission of messages by either telephone or telegraph between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys-at-law and their families; to persons or corporations exclusively engaged in charitable and eleemosynary work and ministers of religions; to officers and employees of other telegraph corporations and telephone corporations, railroad corporations and street railroad corporations. But this subdivision shall not apply to state, municipal or federal contracts. (Laws 1913, p. 623.)

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For matters relating to:
Discrimination, see Sec. 87-2.
Effect of prior contracts, see Sec. 87-4.
Free delivery zones, see Sec. 87-6.
Power of Commission to determine just and reasonable rates, see Sec. 93-1.
Power of Commission to determine just and reasonable joint rates, see Sec. 93-3.
Similar provisions, see Sec. 35.

Officers or employees of railroads may, as a class, receive free or reduced telephone or telegraph service, but not for the corporate business of the company within the state (C. R. No. 12, July 31, 1914). Statutory requirements for 'phones in stations do not authorize free service (C. R. No. 12, July 31, 1914), and furnishing service at a railroad station by a telephone utility free of charge is prohibited (C. R. No. 2, May 21, 1913). Free telephone service with all lines in a county pursuant to an ordinance passed under Secs. 9568-9570 R. S. 1909, is unenforceable (1 Mo. P. S. C. 632).

**Sec. 89. Liability for loss or damage caused by violation of this act.**—In case any telegraph corporation or telephone corporation shall do or cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or other thing required to be done by this act or by any order or decision of the commission, such telegraph corporation or telephone corporation shall be liable to the person or corporation affected thereby for all loss, damage or injury caused thereby or resulting therefrom and in case of recovery if the court shall find that such an act or omission was willful it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as a part of the costs in the action. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation. (Laws 1913, p. 623.)

For matters relating to:
Similar provisions, see Sec. 42.

**Sec. 90. General powers and duties of commission in respect to telegraph corporations and telephone corporations.**—1. The commission shall have general supervision of all telegraph corporations or telephone corporations, and telegraph lines and telephone lines as hereinbefore defined and shall have power to and shall examine the same and keep informed as to their general conditions, their capitalization, their franchises and the manner in which their lines and property are leased, operated or managed, conducted and operated with respect to the adequacy of and accommodation afforded by their service and also with respect to the safety and security of their lines and property, and with respect to their compliance with all provisions of law, orders and decisions of the commission, franchises and charter requirements. The commission shall have power, either through its members or inspectors or employees duly authorized by it to enter in and upon and to inspect the property, equipment, buildings, plants, factories, offices, apparatus, machines, devices and lines of any telegraph corporation or telephone corporation. (Laws 1913, p. 624.)

For matters relating to:
Jurisdiction in general, see Sec. 16.
Service in general, see Sec. 87-1.
Rates in general, see Sec. 87-1.
Consult specific sections.

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The proration of the expenses of maintaining and operating a jointly owned telephone exchange under contract terms is without the jurisdiction of this Commission (4 Mo. P. S. C. 281, P. U. R. 1917 A, 34), as is the granting of injunctive relief (1 Mo. P. S. C. 80). Municipal ordinances, passed pursuant to Secs. 9568-9570, R. S. 1909, are unenforceable outside corporate limits (1 Mo. P. S. C. 632), and amendments to such ordinances passed within two years of the enactment of the ordinance are invalid (Ibid.) A refund insignificant in amount is passed over (2 Mo. P. S. C. 81).

2. The commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any telegraph corporation or telephone corporation and by subpoena *duces tecum* to compel the production thereof, or of duly verified copies of the same or of any of them. (Laws 1913, p. 624.)

For matters relating to:
Similar provisions, see Secs. 43-2, 69-9, 69-10.

**Sec. 91. Reports of telegraph corporations and telephone corporations.**—1. Every telegraph corporation and every telephone corporation shall file with the commission an annual report at a time and covering the yearly period fixed by the commission. Such annual report shall be verified by the oath of the president, treasurer, general manager or receiver, if any, of any of such corporations, or by the person required to file the same. Verification shall be made by the official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth in general terms the sources of his information and the grounds for his belief as to any matters not stated to be verified on his knowledge. The commission shall prescribe the form of such reports and the character of the information to be contained therein and may, from time to time, make such changes and additions in regard to form and contents thereof as it may deem proper, and shall furnish a blank form for such annual reports to every telegraph corporation and every telephone corporation required to make the same. The form of such reports shall follow, as nearly as may be, the form prescribed by the interstate commerce commission. When the report of any telegraph corporation or telephone corporation is defective or erroneous the commission shall notify the corporation to amend the same within a time prescribed by the commission. The said reports shall be preserved in the office of the commission. The commission may require of any telegraph corporation or telephone corporation specific answers to questions upon which the commission may desire information. If any telegraph corporation or telephone corporation shall fail to make and file its annual report as and when required or within such extended time as the commission may allow or shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, such corporation shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public

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school fund of the state. The commission may, when it deems it advisable, exempt any telegraph corporation or telephone corporation from the necessity of filing annual reports until the further order of the commission. (Laws 1913, p. 624.)

For matters relating to:
Publication and filing of schedules, see Sec. 88-1.
Changes in schedules, see Sec. 88-2.
Uniform system of accounts, see Sec. 91-2.
Depreciation accounts, see Sec. 102.
Similar provisions, see Secs. 44, 69-6, 69-7.

The Interstate Commerce Commission's form of annual reports for class A, B and C telephone companies and an annual report for class D telephone companies have been used by this Commission. Special telephone report, Form No. 96 (G. O. No. 17, Cir. No. 31) adopted.

2. The commission may establish a system of accounts to be used by telegraph corporations and telephone corporations, which are required to make annual reports to it, or classify the said corporations, and prescribe a system of accounts for each class and may prescribe the manner in which such accounts shall be kept. The system of accounts required shall follow, as nearly as may be, the system prescribed by the interstate commerce commission. It may also, in its discretion, prescribe the form of records to be kept by such corporations. Notice of alterations by the commission in the required method or form of keeping accounts shall be given to such corporations by the commission at least six months before the same are to take effect. The commission shall at all times have access to all accounts, records and memoranda kept by telegraph corporations and telephone corporations, and may designate any of its officers or employees who shall thereupon be authorized under the order of the commission to inspect and examine any and all accounts, records and memoranda kept by any such corporation; and the commission may, after hearing, prescribe by order, the accounts in which particular outlays and receipts shall be entered, charged or credited. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination except in so far as he may be directed by the commission or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor. Any provision of law prohibiting the disclosure of the contents of telegraph messages or the contents or substance of telephone communications shall not be deemed to prohibit the disclosure of any matter in accordance with the provisions of this act. (Laws 1913, p. 625.)

For matters relating to:
Annual reports, see Sec. 91-1.
Depreciation account, see Sec. 102.
Similar provisions, see Secs. 52, 69-4.

A uniform system of accounts for class A, B and C telephone corporations (G. O. No. 21, Cir. No. 38) and a uniform system for class D telephone corporations (G. O. No. 22, Cir. No. 39) have been adopted. Separate accounts showing all income and expenses of all departments of a telephone utility should be kept (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366). Expenses of advertising and soliciting new subscribers are chargeable to operation and not investment (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366).

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**Sec. 92. Investigations by commission.**—1. The commission may of its own motion investigate or make inquiry in a manner to be determined by it as to any act done or omitted to be done by any telegraph corporation or telephone corporation and the commission shall make such inquiry in regard to any act done or omitted to be done by any telegraph corporation or telephone corporation in violation of any provisons of law or in violation of any order or decision of the commission. (Laws 1913, p. 626.)

For matters relating to:
Similar provisions, see Secs. 46-1, 81.
Consult specific sections.

2. Complaints may be made to the commission by any person or corporation aggrieved, by petition or complaint in writing, setting forth any act done or omitted to be done by any telegraph corporation or telephone corporation alleged to be in violation of the terms or conditions of its franchise or charter or of any order or decision of the commission. Upon presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of which may be accompanied by an order directed to such person or corporation requiring that the matters complained of be satisfied or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit or permit the violation of law, franchise, charter or order or decision of the commission charged in the complaint, if any there be, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper and take such action within its powers as the facts in its judgment justify. (Laws 1913, p. 626.)

For matters relating to:
Complaints, how made, see Secs. 107, 108.
Hearings, how conducted, see Sec. 109.
Rehearing before the Commission, see Sec. 110.
Similar provisions, see Secs. 46-2, 81, 82.

3. Whenever the commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a telegraph corporation or telephone corporation under this section, it shall be its duty within sixty days after final submission to make and file an order either dismissing the petition or complaint or directing the telegraph corporation or telephone corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require. (Laws 1913, p. 626.)

For matters relating to:
Similar provision, see Sec. 46-3.

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**Sec. 93. Rates, rentals, service and physical connections.** 1. Whenever the commission shall be of the opinion after a hearing had upon its own motion or upon a complaint that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telegraph corporation or telephone corporation for the transmission of messages or communications by telegraph or telephone or for the rental or use of any telegraph line, telephone line or any telegraph instrument, wire, appliances, apparatus or device or any telephone receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device or any telephone extension system or that the rules, regulations or practices of any telegraph corporation or telephone corporation affecting such rates, charges, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of law, or that the maximum rates, charges or rentals chargeable by any such telegraph corporation or telephone corporation are insufficient to yield reasonable compensation for the service rendered, the commission shall with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and of the necessity of making reservation out of income for surplus and contingencies determine the just and reasonable rates, charges and rentals to be thereafter observed and in force as the maximum to be charged, demanded, exacted or collected for the performance or rendering of the service specified and shall fix the same by order to be served upon all telegraph corporations and telephone corporations by which such rates, charges and rentals are thereafter to be observed, and thereafter no increase in any rate, charge or rental so fixed shall be made without the consent of the commission. (Laws 1913, p. 626.)

For matters relating to:
Definitions, see Sec. 2.
Rates in general, see Secs. 87-1, 90-1.
Publication and filing of schedules, see Sec. 88-1.
Changes in schedules, notice required, see Sec. 88-2.
Discrimination prohibited, see Secs. 87-2, 88-2.
Deviation from schedule prohibited, exceptions, see Secs. 88-2, 93-3.
Free or reduced rate service, see Sec. 88-3.
Power of Commission to determine just and reasonable joint rates, including rural rates, see Sec. 93-3.
Long and short distance service, see Sec. 94.
Power of Commission to stay increased rates, see Sec. 94.
Power of Commission to determine value, see Sec. 101.
Commission to fix units of service, see Sec. 126.
Similar provisions, see Secs. 47-1, 69-5, 82.

IN GENERAL. The justness and reasonableness of telephone rates in general (1 Mo. P. S. C. 405; 2 Mo. P. S. C. 81; 2 Mo. P. S. C. 256, P. U. R. 1915 C, 366; 2 Mo. P. S. C. 531; 3 Mo. P. S. C. 426; 3 Mo. P. S. C. 451, P. U. R. 1916 E, 525; 4 Mo. P. S. C. 64; 4 Mo. P. S. C. 525; 4 Mo. P. S. C. 588), including schedules seeking increased rates (1 Mo. P. S. C. 201; 1 Mo. P. S. C. 253; 2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050; 2 Mo. P. S. C. 492; 4 Mo. P. S. C. 227; 4 Mo. P. S. C. 588), toll rates (1 Mo. P. S. C. 201; 2 Mo. P. S. C. 168, P. U. R. 1915 A, 418; 2 Mo. P. S. C. 492; 4 Mo. P. S. C. 238; 4 Mo. P. S. C. 525), and charges for switching rural lines (1 Mo. P. S. C. 253; 1 Mo. P. S. C. 633) have been passed upon.

JURISDICTION. Regulation of public utility rates is governmental and continuing and is not to be hampered by contracts between utilities and individuals (2 Mo. P. S. C. 531), and this Commission may require efficient service at reasonable rates, irrespective of contract terms (3 Mo. P. S. C. 451, P. U. R. 1916 E, 525), but may permit only such rates

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as are just and reasonable (1 Mo. P. S. C. 271). The failure of a mayor to sign an ordinance regulating telephone rates passed prior to enactment of Secs. 5968-5969, R. S. 1909, is of no effect on the Commission's jurisdiction (2 Mo. P. S. C. 492). The Commission may not require free telephone service within a county under a municipal ordinance passed pursuant to Secs. 9568-9570, R. S. 1909 (1 Mo. P. S. C. 632).

PARTICULAR RATES. Rates for telephone service, although high upon comparison, considered not unreasonable per se in view of well and expensively built plant (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366). Question of reasonableness of an additional charge for telephone service where boarders or roomers are kept in a private residence, of installing 'phones and of a move charge must be determined without regard to valuation of the property (—— Mo. ——, 195 S. W. 741). Equality of charges for telephone service should be undeviatingly maintained (2 Mo. P. S. C. 531), but reasonable classifications of telephone subscribers (Ibid.), and the application of different reasonable rates to the different classes (1 Mo. P. S. C. 253) is proper. A customary rate of 50 cents for extension service (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), and an additional charge of 50 cents per month for telephone service to residents keeping boarders or roomers (—— Mo. ——, 195 S. W. 741, reversing 2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), but not for the period during which they do not fall within the classification (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), have been considered reasonable; whereas a move charge of 50 cents, where no actual move of the telephone occurs (—— Mo. ——, 195 S. W. 741, affirming 2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), and an additional charge of $3 for telephone service of less than one year (Ibid.) have been found unreasonable.

RETURN. Returns of 7.86%, covering surplus and contingencies (4 Mo. P. S. C. 64), 7½% in view of the hazard of the undertaking (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), $2,400 on property valued at $17,500 (4 Mo. P. S. C. 588), and $1,557.07 on property valued at $25,000 (2 Mo. P. S. C. 492) for furnishing telephone service have been considered proper. Without an audit or appraisal, an approximate summary of revenue from increased rates is accepted to show return not unreasonable (2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050). Allowances of 6½% for depreciation and contingencies (2 Mo. P. S. C. 256, P. U. R. 1917 C, 366), $5,000 as salary for an owner-manager (Ibid.), and $60 for use of automobiles for a plant valued at $4,000 (1 Mo. P. S. C. 405) have been made in telephone rate cases, but allowances for cost of securing capital or discount on bonds (4 Mo. P. S. C. 64), or license revenue paid for use of instruments capitalized (2 Mo. P. S. C. 492) have been considered improper. The salary of the manager of several telephone exchanges should be apportioned between them (2 Mo. P. S. C. 492). A telephone utility is allowed 25% of the revenue from long distance business originating on its exchange (1 Mo. P. S. C. 201).

PAYMENT. Exacting advance payment of first three months' charges upon installation and thereafter one month's charges (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366; 2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050) or advance payments for twelve months upon installation and thereafter semi-annually by rural subscribers (2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050) have been held proper, but annual advance payments for flat rate local exchange service (2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050) has been disapproved. Requirement of a $3 deposit upon installation of 'phone, forfeited upon failure to continue service a year (—— Mo. ——, 195 S. W. 741, affirming 2 Mo. P. S. C. 256, P. U. R. 1915 C, 366) found unreasonable. Refusal to connect a subscriber with one in arrears or refusing to pay for service is justifiable (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044) but discontinuance of service to subscriber refusing to pay rate not on file with the Commission is not justifiable (Ibid.) Acceptance of payment and rendition of telephone service in the future waives right to discontinuance of service for previous nonpayment (4 Mo. P. S. C. 56), and the installation of telephone in postoffice has been ordered where rentals are payable in advance, although a dispute exists as to payment of past service (4 Mo. P. S. C. 238, P. U. R. 1917 A, 247).

2. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rules, regulations or practices of any telegraph corporation or telephone corporation are unjust or unreasonable or that the equipment or service of any telegraph corporation or telephone corporation is inadequate, insufficient, improper or inefficient, the commission shall determine the just, reasonable, adequate, efficient and proper regulations, practices, equipment and service thereafter to be installed, to be observed and used and to fix and prescribe the same by order to be served upon every telegraph corporation and telephone corporation to be bound thereby, and thereafter it shall be the duty of every telegraph corporation and telephone corporation

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to which such order is directed to obey each and every such order so served upon it and to do everything necessary or proper in order to secure compliance with and observance of every such order by all its officers, agents and employees according to its true intent and meaning. Nothing contained in this act shall be construed as giving to the commission power to make any order, direction or requirement requiring any telegraph corporation or telephone corporation to perform any act which is unjust or unreasonable or in violation of any law of this state or of the United States not inconsistent with the provisions of this act. (Laws 1913, p. 627.)

For matters relating to:
Definitions, see Sec. 2.
Service in general, see Secs. 87-1, 90-1.
Discrimination, see Secs. 87-3, 87-5.
Physical connections, see Sec. 93-3.
Equipment and facilities, see Secs. 95, 116.
Similar provisions, see Secs. 47-2, 69-5.

TELEPHONE UTILITIES. Equality of service is to be undeviatingly maintained (2 Mo. P. S. C. 531), and the Commission may prohibit unjust and unreasonable rules and prescribe just and reasonable rules hereunder (2 Mo. P. S. C. 168, P. U. R. 1915 A, 418). Local telephone service consists of communication between two local exchange stations (2 Mo. P. S. C. 445, P. U. R. 1915 D, 1044). No order was entered with reference to temporary inadequate telephone service due to consolidation of systems and severe snowstorms (2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050), or unusual weather conditions and other unavoidable causes (3 Mo. P. S. C. 336). While the installation in depots of the telephone service of the company having the largest number of local subscribers in the city constitutes compliance with statutory provisions, Laws 1911, p. 154, (2 Mo. P. S. C. 157, P. U. R. 1915 A, 61; 2 Mo. P. S. C. 426), public convenience has been held to (3 Mo. P. S. C. 426) and not to (2 Mo. P. S. C. 157, P. U. R. 1915 A, 61) require the installation of a 'phone of each of two competing companies. The installation and maintenance of a mutual telephone company's 'phone in a station not ordered (3 Mo. P. S. C. 549). Telephone utilities should own all instruments and keep same in repair (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), and a general order regulating location of 'phones in residences is not issued on account of facts peculiar to individual cases (Ibid.) Delay in securing telephone connections not shown where the exchange is thoroughly and efficiently organized and using every reasonable means to give prompt service (4 Mo. P. S. C. 64). Remedying rural telephone service so as to have not more than ten or twelve subscribers on a line is within the power of the subscribers where they own the line and equipment (1 Mo. P. S. C. 253). Limitation of conversations over rural lines to five minutes approved (2 Mo. P. S. C. 168, P. U. R. 1915 A, 418).

TELEGRAPH UTILITIES. Furnishing of ticker service of stock quotations within a city is intrastate commerce, and subject to the jurisdiction of the Commission (4 Mo. P. S. C. 557, P. U. R. 1917 B, 932). Contract provisions inconsistent with public duty and against public policy do not justify refusal of ticker service of stock quotations (4 Mo. P. S. C. 557, P. U. R. 1917 B, 932), but conducting a bucket shop has justified a refusal to furnish such service (Ibid.)

3. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone corporations or two or more telegraph corporations whose lines can be made to form a continuous line of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone corporations have failed to establish joint rates, tolls or charges for service by or over their said lines, and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conver-

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sations between points within the same city or town, and the conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and in force in the future. If such telegraph or telephone corporations do not agree upon the division between them of the cost of such physical connection or connections or the division of the joint rates, tolls or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order. (Laws 1913, p. 627.)

For matters relating to:
Discrimination, see Secs. 87-2, 88-2.
Effect of contracts upon rates, see Sec. 87-4.
Duty of connecting lines, see Sec. 87-5.
Rate schedules, filing and changes in, see Sec. 88-1, 88-2.
Free or reduced rate service, see Sec. 88-3.
Long and short distance service, see Sec. 94.
Power of Commission to stay increased rates, see Sec. 94.
Equipment and facilities, see Sec. 96.
Valuation, see Sec. 101.
Commission to fix units of service, see Sec. 126.
Similar provisions, see Secs. 47-3, 47-4.

PHYSICAL CONNECTIONS. Construed (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296). The Commission is vested with jurisdiction to order a physical connection between local and long distance telephone companies (1 Mo. P. S. C. 271; 1 Mo. P. S. C. 686) and such connection has been ordered that rural subscribers (4 Mo. P. S. C. 611) and subscribers of a mutual telephone company rendering toll service for hire (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296) might receive long distance service, irrespective of the fact that defendant utility was willing and able to furnish the necessary long distance service over its lines (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296). Requirement of physical connection with long distance service of competitor is not a depreciation of property without due process of law (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296), and a local telephone utility permitting discontinuance of long distance service because of nonpayment of accounts has been required to apply for renewal of connection (4 Mo. P. S. C. 238, P. U. R. 1917 A, 247). Physical connection between local and long distance company ordered where a competing local utility has such connection, where the total traffic equals about one-half load and three or four hundred additional telephones are accommodated (1 Mo. P. S. C. 686). Whether or no a mutual telephone company engaging in toll service for hire is impressed with a public use or possessed of the power of eminent domain is immaterial in ordering a physical connection (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296), but the Commission may not order a physical connection between telephone companies where one is a purely mutual company (4 Mo. P. S. C. 308, P. U. R. 1917 A, 245). Repair of an existing long distance station is preferred to an additional connection (1 Mo. P. S. C. 201). The rendition of local telephone service forbidden a switching station for long distance messages (1 Mo. P. S. C. 271). Similar toll service is to be furnished rural subscribers as is furnished subscribers within the initial rate area (4 Mo. P. S. C. 525). The local and long distance service rendered by telephone utilities should be considered independently in fixing rates (3 Mo. P. S. C. 559, P. U. R. 1916 E, 296), and long distance telephone service to nearby cities should be rendered on a toll, rather than an increased rate, basis (4 Mo. P. S. C. 238, P. U. R. 1917 A, 247). A 5-cent toll per message from nonsubscribers using rural lines is approved (2 Mo. P. S. C. 168, P. U. R. 1915 A, 418), whereas a 5-cent toll per message from rural subscribers calling nonsubscribers is abrogated (Ibid.) An addition charge of 10 cents on "in" than on "out" long distance messages is unjust (1 Mo. P. S. C. 201). Rates of 25 cents (1 Mo. P. S. C. 253) and 50 cents per month (4 Mo. P. S. C. 525) found reasonable for switching rural telephone lines. Consolidation of competing utilities and rendition of certain toll service free does not justify increase in rural telephone rates from $1 and $1.50 to $2 to those desiring local service only (3 Mo. P. S. C. 336). Reliance has been placed upon comparison of rates in determining just and reasonable rates for rural switching service (4 Mo. P. S. C. 525). Determination of reasonableness of furnishing toll and local service at local service rates held in abeyance pending test of rates (2 Mo. P. S. C. 492). Contract covering free exchange of connections approved (1 Mo. P. S. C. 44). An originating exchange is allowed 25% of the receipts on toll charges (1 Mo. P. S. C. 201).

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**Sec. 94. Charges for short and long distance service; power of commission to stay increased rate.**—No telegraph or telephone corporation subject to the provisions of this act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any such telegraph or telephone corporation to charge or receive as great a compensation for a shorter as for a longer distance. Upon application to the commission, a telephone or telegraph corporation may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone or telegraph corporations may be relieved from the operation and requirements of this section. Whenever there shall be filed with the commission by any telegraph corporation or telephone corporation any schedule stating a new individual or joint rate, rental or charge, or any new individual or joint regulation or practice affecting any rate, rental or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested telegraph or telephone corporation or corporations, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, rental, charge, regulation or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the telegraph or telephone corporation affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, rental, charge, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, rental, charge, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, rental, charge, regulation or practice goes into effect, the commission may make such order in reference to such rate, rental, charge, regulation or practice as would be proper in a proceeding initiated after the rate, rental, charge, regulation or practice had become effective: *Provided*, that if any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding six months. At any hearing involving a rate increased or a rate sought to be increased after the passage of this act, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the telegraph corporation or telephone



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corporation, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. (Laws 1913, p. 628.)

For matters relating to:
Discrimination, see Secs. 87-2, 88-2.
Rate schedules, filing and changes in, see Secs. 88-1, 88-2.
Power of Commission over rates in general, see Secs. 87-1, 90-1.
Power of Commission to determine just and reasonable rates, see Secs. 93-1, 93-3.
Burden of proof upon party averse to Commission, see Sec. 124.
Similar provisions, see Secs. 48, 70.

Proper procedure before the Commission is to be had before increased toll rates become effective (1 Mo. P. S. C. 201). The burden of proof upon complaint attacking reasonableness of proposed increased telephone rates is upon defendant utility (4 Mo. P. S. C. 227). Proposed telephone rates changing a deficit to a surplus, removing discriminations and appearing reasonable (1 Mo. P. S. C. 253), rates imposing no additional burden upon subscribers paying bills promptly, allowing a discount for prompt payment that the utility may collect its accounts (4 Mo. P. S. C. 227), and rates, approximately the same as those charged generally over the territory for similar service (2 Mo. P. S. C. 450, P. U. R. 1915 D, 1050), are permitted to go into effect. Proposed telephone rates in accord with charges of similar utilities found unjust and rates yielding $1,557.07 on an investment of $25,000 are found reasonable (2 Mo. P. S. C. 492), and rates yielding $3,000 on an investment of $17,500 have been considered unjust and rates yielding $2,400 prescribed (4 Mo. P. S. C. 588). Toll charges should be the same for both "in" and "out" messages (1 Mo. P. S. C. 201).

**Sec. 95. Power of commission to order repairs or changes.** Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that repairs or improvements to or changes in any telegraph line or any telephone line ought reasonably to be made, or that any additions should reasonably be made thereto, in order to promote the convenience of the public or employees, or in order to secure adequate service or facilities for telegraphic or telephonic communications, the commission shall make and serve an order directing that such repairs, improvements, changes or additions be made within a reasonable time and in a manner to be specified therein, and every telegraph corporation and telephone corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of the commission served upon it. (Laws 1913, p. 629.)

For matters relating to:
Equipment and facilities in general, see Secs. 87-1, 90-1, 93-2, 93-3, 116.
Discrimination, see Sec. 87-3.

A telephone utility is directed to bring the construction of its rural routes up to a good, safe and serviceable condition (1 Mo. P. S. C. 127). Necessary repairs to an existing long distance telephone station are ordered in preference to an additional connection (1 Mo. P. S. C. 201). Recommendations of the Committee on overhead line construction of the National Electric Light Association for construction of overhead lines adopted (2 Mo. P. S. C. 208; 2 Mo. P. S. C. 210; 2 Mo. P. S. C. 213; 2 Mo. P. S. C. 216), and the reconstruction of "call" and "clock wire" circuits with a maintenance of sufficient clearances (2 Mo. P. S. C. 216), the taking up of slack in cables and installation of poles of greater height for certain drop wires (2 Mo. P. S. C. 213), the raising of cables a sufficient distance for clearances with other wires (2 Mo. P. S. C. 210) and the installation of fixtures on poles so as to allow a clearance of thirty-two inches for electric wires (2 Mo. P. S. C. 208) have been ordered for greater safety.

**Sec. 96. Franchises and privileges.**—No telegraph corporation or telephone corporation hereafter formed shall begin construction of its telegraph line or telephone line without first having obtained the permission and approval of the commission and its

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certificate of public convenience and necessity, after a hearing had upon such notice as the commission may prescribe. Before any such certificate shall be issued there must be filed in the office of the commission by the applicant therefor a verified statement showing that the required consent of the proper municipal authorities has been obtained. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void. (Laws 1913, p. 629.)

For matters relating to:
Service in general, see Secs. 87-1, 90-1, 93-2.
Equipment and facilities, see Sec. 95.
Similar provisions, see Secs. 53, 72.

Telephone utilities are to comply with this section fully (1 Mo. P. S. C. 409), including so-called mutual telephone utilities exacting a different charge from nonmembers than from members (2 Mo. P. S. C. 116), but mutual telephone companies, not being subject to the jurisdiction of the Commission, need not secure a certificate of public convenience and necessity to begin construction of their lines (2 Mo. P. S. C. 103; 2 Mo. P. S. C. 107; 2 Mo. P. S. C. 116; 4 Mo. P. S. C. 677, P. U. R. 1917 C, 881). This section does not apply where construction was begun prior to April 15, 1913 (1 Mo. P. S. C. 80), or to extensions of lines of companies in existence at or before the passage of this Act (2 Mo. P. S. C. 84), as "hereafter formed" is equivalent to "hereafter engaged in the telephone business" (Ibid.) A telephone utility furnishing service in a city through connection with another prior to effective date of this act need not secure a certificate for the extension of its own lines within the city under a franchise granted subsequent to the effective date of the law (1 Mo. P. S. C. 695), as the mere changing of the manner of furnishing telephone service does not cause a utility in existence on effective date of the act to become one "hereafter formed" (Ibid.) Evidence held insufficient to show that defendant began construction of its telephone line in such manner as to necessitate procurement of certificate prior to filing of complaint (2 Mo. P. S. C. 112). A certificate of public convenience and necessity permitting competition in local telephone service is not to be had where the existing system renders adequate service (3 Mo. P. S. C. 343; 1 Mo. P. S. C. 68), and proof of transgression of or want of conformity unto law on the part of an existing telephone utility does not justify the issuance of a certificate of public convenience and necessity to a competing utility (1 Mo. P. S. C. 271), as admission of competition in local telephone service is to be avoided wherever possible (Ibid.), but a certificate has been granted a competing utility that greatly improved service may be rendered the public (1 Mo. P. S. C. 68). A local permit or franchise is a condition precedent to a certificate of convenience and necessity authorizing the construction and operation of telephone utilities (4 Mo. P. S. C. 238, P. U. R. 1917 A, 247), but is only necessary where a certificate is necessary (2 Mo. P. S. C. 84). Establishment of a switching station for long distance messages authorized upon condition that said station render no local telephone service (1 Mo. P. S. C. 271).

**Sec. 97. Right to issue stocks, bonds and notes is subject to regulation by state.**—The power of telegraph corporations or telephone corporations to issue stocks, bonds, notes and other evidence of indebtedness and to create liens upon their property situated in this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe. (Laws 1913, p. 630.)

For matters relating to:
Sale, lease, assignment, transfer, etc., see Sec. 98-1.
Acquisition of stock in another utility, see Sec. 98-2.
Power of Commission over issuance, see Sec. 98a.
Recording of Commission's certificate, see Sec. 99-1.
Stock dividends, see Sec. 99-2.

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Security issues in general, see Sec. 100.
Valuation, see Sec. 101.
Reorganization, see Sec. 103.
Similar provisions, see Secs. 54, 73.

**Sec. 98. Transfer and ownership of stock.**—1. No telegraph corporation or telephone corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, line or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such line or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this act, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value. (Laws 1913, p. 630.)

2. Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation, domestic or foreign, other than a telegraph corporation or telephone corporation, shall, without the consent of the commission, purchase or acquire, take or hold more than ten per centum of the total capital stock issued by any telegraph corporation or telephone corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any telegraph corporation or telephone corporation may, without the consent of the commission, acquire and hold the remainder of the capital stock of such telegraph corporation or telephone corporation, or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of such stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assign-

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ment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation in violation of any provision of this act shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such telegraph corporation or telephone corporation, or shall be recognized as effective for any purpose. (Laws 1913, p. 630.)

For matters relating to:
Power of state, see Sec. 97.
Power of Commission over issuance, see Sec. 98a.
Recording of Commission's certificate, see Sec. 99-1.
Stock dividends, see Sec. 99-2.
Security issues in general, see Sec. 100.
Valuation, see Sec. 101.
Reorganization, see Sec. 103.
Similar provisions, see (98-1) Secs. 55, 74-1; (98-2) Secs. 56, 74-2.

Transfer and sale by one to a competing telephone utility approved that service to the public may be promoted (1 Mo. P. S. C. 44).

**Sec. 98a. Approval of issues of stocks, bonds and other forms of indebtedness.**—A telegraph or telephone corporation may, when authorized by order of the commission, and not otherwise, issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or the improvement or maintenance of its service within the state, or for the discharge or lawful refunding of its obligations, or reimbursement of moneys actually expended from the income from any source, within five years next prior to the filing of the application therefor, or for any of such purposes: *Provided, however,* that no order shall be granted authorizing such issue for reimbursement of moneys expended from income for betterments or replacements unless the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditures were made. The commission may by order authorize the issue of bonds, notes or other evidence of indebtedness for the reimbursement of moneys heretofore actually expended from income for any of the purposes herein specified, except maintenance of service or replacements prior to five years next preceding the filing of the application therefor, provided such application be made prior to January first, nineteen hundred and fourteen. The order of the commission shall fix the amount of any such issue and the purposes to which it or its proceeds are to be applied and recite that in the opinion of the commission the money, property or labor procured or to be procured or paid for by such issue or its proceeds has been or is reasonably required for the purposes specified in the order, and that such purposes are in no part reasonably chargeable to operating expenses or to income except in the case of bonds, notes or other evidence of indebtedness as may be permitted in the order. For the purpose of enabling the commission to determine whether it should issue such an order the commission shall make such inquiry or investigation, hold such

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hearings and examine such witness, books, papers, documents or contracts as it may determine of importance in enabling it to reach a determination. No such corporation shall, without the consent of the commission, apply any such issue or its proceeds to any purpose not specified in the order. Such telegraph corporation or telephone corporation may issue notes for proper corporate purposes and not in violation of any provision of this act, or of any other act, payable at periods of not more than twelve months, without the consent of the commission; but no such note shall, in whole or in part, directly or indirectly, be refunded by any issue of stock or bonds, or by any evidence of indebtedness running for more than twelve months, without the consent of the commission. No telegraph corporation or telephone corporation shall be required, however, to apply to the commission for authority to issue stocks, bonds, notes or other evidence of indebtedness except for the acquisition of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within the state, or the discharge or refunding of obligations, or reimbursement of moneys actually expended for such purposes. The commission shall have no power to authorize the capitalization of any franchise or right to be a corporation, or to authorize the capitalization of any franchise, or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or any political subdivision thereof, as the consideration of the grant of such franchise or right, nor shall the corporate stock of the corporation formed by the merger or consolidation of two or more other corporations exceed the sum of the capital stock of the corporation so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. (Laws 1913, p. 631.)

For matters relating to:
Fees, see Sec. 21.
Power of state, see Sec. 97.
Sale, lease, assignment, transfer, etc., see Sec. 98-1.
Acquisition of stock in another utility, see Sec. 98-2.
Recording of Commission's certificate, see Sec. 99-1.
Stock dividends, see Sec. 99-2.
Security issues in general, see Sec. 100.
Valuation, see Sec. 101.
Reorganization, see Sec. 103.
Similar provisions, see Secs. 57, 75.

Applications for the issuance of stock (1 Mo. P. S. C. 77; 1 Mo. P. S. C. 650) and bonds (1 Mo. P. S. C. 77) have been passed upon. Upon reorganization, issuance of capital stock covering the right to use certain streets and reservations held by a development company or to pay for the plan of financing the reorganization was not approved (1 Mo. P. S. C. 650).

**Sec. 99. Certificate of commission to be recorded; stock dividends prohibited.**—1. No telegraph corporation or telephone corporation governed by the provisions of this act shall issue any stocks, bonds, notes or other evidence of indebtedness, for money,

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property or services, either directly or indirectly, nor shall it receive any money, property or services in payment of the same, either directly or indirectly until there shall have been recorded upon the books of such corporation or person the certificate of the commission herein provided for. (Laws 1913, p. 632.)

2. No telegraph corporation or telephone corporation governed by the provisions of this act shall declare any stock, bond or scrip dividend or divide the proceeds of the same of any stock, bond or scrip among its stockholders unless authorized by the commission so to do. (Laws 1913, p. 633.)

For matters relating to:
Power of state, see Sec. 97.
Sale, lease, assignment, transfer, etc., see Sec. 98-1.
Acquisition of stock in another utility, see Sec. 98-2.
Power of Commission over issuance, see Sec. 98a.
Security issues in general, see Sec. 100.
Valuation, see Sec. 101.
Reorganization, see Sec. 103.
Similar provisions, see (99-1) Secs. 58-1, 76; (99-2) Secs. 58-2, 76.

**Sec. 100. Power of commission to require account of disposition of sales of stocks, bonds, et cetera; if issued without authority void; penalties and forfeitures; state not liable.—1.** The commission shall have the power to require every telegraph corporation and telephone corporation to account for the disposition of the proceeds of all sales of stocks, bonds, notes and other evidence of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order. (Laws 1913, p. 633.)

2. All stock and every bond, note or other evidence of indebtedness of a telegraph corporation or telephone corporation issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every bond, note or other evidence of indebtedness of a telegraph corporation or telephone corporation issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. (Laws 1913, p. 633.)

3. Every telegraph corporation and telephone corporation which, directly or indirectly, issues or causes to be issued, any stock, or bond, note or other evidence of indebtedness, in nonconformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the Constitution of this state, or which applies the proceeds from the sale thereof, or any part thereof to any purpose other than the purpose or purposes specified in the commission's order in excess of the amount

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in said order authorized for the purpose, is subject to a penalty of not less than five hundred dollars nor more than twenty thousand dollars for each offense. (Laws 1913, p. 633.)

4. Every officer, agent or employee of a telegraph corporation or telephone corporation and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock, bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or to the Constitution of this state, or who, in any proceeding before the commission, knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation, which said statement or representation so made, filed or caused to be filed, may tend in any way to influence the commission to make an order authorizing the issue of any stock, or any bond, note or other evidence of indebtedness, or which results in the procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission, in any proceeding, tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued or executed or negotiated any such stock, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied, the proceeds or any part thereof, from the sale of any stock, bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock, or bond, note or other evidence of indebtedness has been issued or executed in violation of any of the provisions of this act, negotiates, or causes to be negotiated, any stock, bond, note or other evidence of indebtedness, shall be deemed guilty of a felony, and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment. (Laws 1913, p. 633.)

5. No provision of this act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Missouri to pay or guarantee, in any manner whatsoever, any stock, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this act. (Laws 1913, p. 634.)

6. All stocks, and every bond, note or other evidence of indebtedness issued by any public utility after this act takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of this act, shall be void, unless an order of the commission authorizing the issue of such stocks, bonds, notes or other evidences of

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indebtedness shall have been obtained from the commission prior to such issue. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 634.)

For matters relating to:
Power of state, see Sec. 97.
Sale, lease, assignment, transfer, etc., see Sec. 98-1.
Acquisition of stock in another utility, see Sec. 98-2.
Power of Commission over issuance, see Sec. 98a.
Recording of Commission's certificate, see Sec. 99-1.
Stock dividends, see Sec. 99-2.
Valuation, see Sec. 101.
Reorganization, see Sec. 103.
Similar provisions, see Secs. 59, 77.

**Sec. 101. Power of commission to ascertain valuation of property of telegraph corporations and telephone corporations.**—1. The commission shall have the power to ascertain the value of the property of every telegraph corporation and telephone corporation in this state and every fact which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every telegraph corporation and telephone corporation. (Laws 1913, p. 634.)

2. For the purpose of ascertaining the matters and things specified in this section, concerning the value of the property of telegraph corporations and telephone corporations, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had the commission shall give the telegraph corporation or telephone corporation affected thereby at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All telegraph corporations or telephone corporations affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The commission is empowered to resort to any other source of information available, which information shall be offered in evidence on such hearing. The evidence introduced at such hearing or hearings shall be reduced to writing and certified under the seal of the commission. The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the telegraph corporation or telephone corporation affected. Such findings shall be subject to review by any circuit court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed when properly certified under the seal

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of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court in which the commission, the state or any officer, department, or institution thereof, or any county, city, municipality or other body politic and the telegraph corporation or telephone corporation affected may be interested whether arising under the provisions of this act or otherwise, and such findings, when so introduced shall be conclusive evidence of the facts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any telegraph corporation or telephone corporation subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearings and findings: *Provided*, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation. (Laws 1913, p. 635.)

For matters relating to:
Rate cases, see Sec. 93.
Valuation of franchises for security issues, see Sec. 98a.
Reorganization, see Sec. 103.
Similar provisions, see Secs. 60, 78.

A literal interpretation of this section, making findings of the Commission "conclusive evidence of the facts therein stated under conditions then existing" renders it unconstitutional (—— Mo. ——, 195 S. W. 741), but the section is to be given an interpretation consistent with its constitutionality (Ibid.). A finding of the Commission as to the value of telephone property is not continuously conclusive (—— Mo. ——, 195 S. W. 741). Where the Commission is not called upon to fix maximum rates for the entire system (4 Mo. P. S. C. 525) or proposed changes in rates do not make a very material change in income (1 Mo. P. S. C. 253) or an equalization of rates between different classes of rural telephone subscribers is sought (3 Mo. P. S. C. 336) a complete valuation and audit is not necessary. Accrued depreciation is to be given consideration in determining fair present value (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366). "Furniture and fixtures" and "tools and teams" are not chargeable with an allowance for engineering (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366). Consideration is to be given excess plant necessary to take care of prospective consumers of the near future (4 Mo. P. S. C. 64), and transmitters, receivers and induction coils, although the property of another (2 Mo. P. S. C. 492) are to be capitalized in a rate case, but discarded property and expenses incident to consolidation and merger have not been considered (4 Mo. P. S. C. 64). Working capital in an amount equal to 1-12 gross earnings allowed (4 Mo. P. S. C. 64; 2 Mo. P. S. C. 492), and amounts of $5,000, in addition to stores and supplies on hand of $12,255, on property valued at $137,449 (4 Mo. P. S. C. 64), and $3,500 on property valued at $182,000 (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366), has been allowed as working capital. Public utility property, established and in successful operation at reasonable rates, is entitled to an allowance for going value (4 Mo. P. S. C. 64), but an allowance on the deficit theory to cover the cost of development (4 Mo. P. S. C. 64) or a separate statement of allowances for physical and intangible value (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366) is not made. Allowances for items for which no expense is incurred is not made in a rate case (2 Mo. P. S. C.

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256, P. U. R. 1915 C, 366), and theoretical expenditures for advertising and soliciting subscribers and developing the business (Ibid.), amounts charged to warehouse and rights of way, not actually incurred (Ibid.), and amounts entered upon books but representing no actual investment (2 Mo. P. S. C. 482) have been disallowed. An allowance of from $600 to $800 was made for an $1,800 automobile in service three years (2 Mo. P. S. C. 256, P. U. R. 1915 C, 366).

**Sec. 102. Power of commission to require depreciation account of telegraph corporations and telephone corporations.**—The commission shall have power, after hearing, to require any or all telegraph corporations or telephone corporations to carry a proper and adequate depreciation account in accordance with such rules and regulations and forms of account as the commission shall prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of such public utility. Each telegraph corporation and telephone corporation shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund. (Laws 1913, p. 636.)

For matters relating to:
Annual reports, see Sec. 91-1.
Uniform system of accounts, see Sec. 91-2.
Depreciation in value, see Sec. 101.
Similar provisions, see Secs. 61, 74.

**Sec. 103. Reorganization.**—1. Reorganization of telegraph corporations and telephone corporations shall be subject to the supervision and control of the commission and no such reorganization shall be had without the authorization of such commission. (Laws 1913, p. 636.)

For matters relating to:
Security issues, see Secs. 97-100.
Value, see Sec. 101.
Similar provisions, see Secs. 62, 80.

Failure to receive the full face value of a stock issue to effect a proposed reorganization prevents approval of the reorganization plan (1 Mo. P. S. C. 650).

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission, which, in making its determination, shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash: *Provided, however,* that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission. The

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commission may by its order impose such condition or conditions as it may deem reasonable and necessary. (Laws 1913, p. 636.)

Issuance of capital stock upon reorganization covering the use of certain streets, certain reservations held by a development company and expenses of financing a plan of reorganization is not approved (1 Mo. P. S. C. 650). (Consult Sec. 103-1).

**Sec. 104. Forfeiture; penalties.**—Every telegraph corporation and every telephone corporation, and all officers, agents and employees of any telegraph corporation or telephone corporation shall obey, observe and comply with every order, direction or requirement made by the commission, under authority of this act, so long as the same shall be and remain in force. Any telegraph corporation or any telephone corporation which shall violate any provision of this article, or which fails, omits or neglects to obey, observe or comply with any order or decision or any direction or requirement of the commission, shall forfeit to the state of Missouri not to exceed the sum of one thousand dollars for each and every offense; every violation of any such order or decision or direction or requirement, or of this article, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. (Laws 1913, p. 636.)

For matters relating to:
Summary proceedings, see Sec. 105.
Similar provisions, see Secs. 63, 83.
Consult specific sections.

**Sec. 105. Summary proceedings.**—Whenever the commission shall be of the opinion that a telegraph corporation or telephone corporation is failing or omitting or about to fail or omit to do anything required of it by law or by order, decision, direction or requirement of the commission authorized by this act, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law, or of any order, decision, direction or requirement of the commission authorized by this act, it shall direct the general counsel to the commission to commence an action or proceeding in any circuit court of the state of Missouri in the name of the state of Missouri for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The general counsel to the commission shall thereupon begin such action or proceeding by a petition to such court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding thirty days after service of a copy of the petition, within which the telegraph corporation or telephone corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judg-

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ment or writs effective may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief. (Laws 1913, p. 637.)

For matters relating to:
Forfeitures and penalties, see Sec. 104.
Similar provisions, see Secs. 64, 84.

Except to initiate proceedings hereunder the Commission may not stay the construction, maintenance and operation of a telephone system begun prior to April 15, 1913, without first obtaining a certificate of public convenience and necessity (1 Mo. P. S. C. 80).

**Sec. 105a. Powers of commission relating to other utilities made applicable to heating companies.**—All provisions of this act in reference to railroad corporations, street railroad corporations, common carriers, gas corporations, electrical corporations, water corporations, telephone and telegraph corporations, in reference to hearings, summoning witnesses, taking of testimony, reports, approval of incorporation and certificates of franchises, the approval of issues of stocks, bonds, notes and other evidence of indebtedness, consolidation, lease, transfer of franchises, valuation of property, grants and franchises, keeping of accounts, complaints as to quality, price, facilities furnished, the fixing of just and reasonable rates and adequacy of service, forfeitures of all descriptions, forfeitures for non-compliance with the orders, summary proceedings under this act, excessive charges for product, service or facilities, proceedings before the commission, and proceedings in any court mentioned in this act, and in all other sections, paragraphs, provisions and parts of this act in reference to any other corporations subject to any of the provisions of this act, so far as the same shall be practically, legally or necessarily applicable to heating companies in this state, are hereby made applicable to such heating companies, as designated in this act, and shall have full application thereto. (Laws 1913, p. 637.)

For matters relating to:
Definitions, see Sec. 2.

## ARTICLE VI.

### PROCEDURE BEFORE COMMISSION AND COURTS.

Section 106. Actions to recover penalties or forfeitures.
107. Complaints, how made.
108. Any utility has right to make complaint.
109. Hearings, how conducted.
110. Rehearing before commission.
111. Court proceeding for review.
112. Writ of review; bond to be given; excess charges of rates to be paid into court; additional bond may be required.
113. Preferences in all court proceedings.
114. Appeals to supreme court; transcript and exhibits; clerk to docket appeal at first term.
115. Orders of commission in collateral proceedings conclusive.

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**Sec. 106. Actions to recover penalties or forfeitures.**—An action to recover a penalty or a forfeiture under this act or to enforce the powers of the commission under this or any other act may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the commission, the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in this act, the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order. (Laws 1913, p. 638.)

**Sec. 107. Complaints, how made.**—Complaint may be made by the commission of its own motion, or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission: *Provided*, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of aldermen or a majority of the council, commission or other legislative body of any city, town, village or county, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of such gas, electricity, water or telephone service. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided. The commission shall not be required to dismiss any complaint because of the absence of direct damage to the com-

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plainant. Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the corporation or person complained of. Service in all hearings, investigations and proceedings pending before the commission may be made upon any person upon whom summons may be served in accordance with the provisions of the code of civil procedure of this state, and may be made personally or by mailing in a sealed envelope with postage prepaid. The commission shall fix the time when and the place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless the commission shall find that the public necessity requires that such hearing be held at an earlier date. (Laws 1913, p. 638.)

For matters relating to:
Rules of practice and procedure and forms, see Sec. 24.
Investigation of common carrier accidents, see Sec. 45.
Investigation of common carrier, railroad or street railroad utilities, see Sec. 46.
Complaints as to quality and price of gas, water and electricity, see Sec. 81.
Investigation of telephone or telegraph matters, see Sec. 92.
Right of utility to make complaint, see Sec. 108.
Hearings in general, see Sec. 109.
Substantial compliance with requirements of act sufficient, see Sec. 127.

Any person, irrespective of direct damage to him (4 Mo. P. S. C. 573), may file a complaint, except as to rates (1 Mo. P. S. C. 130). Public utilities, cities and the public have equal rights to seek revisions of rates (1 Mo. P. S. C. 664), and an amended complaint, signed by twenty-five consumers or prospective consumers is sufficient to raise such questions (1 Mo. P. S. C. 130; 2 Mo. P. S. C. 311, P. U. R. 1915 C, 1017). Technical rules of pleading are not observed (1 Mo. P. S. C. 416), and the form and letter of complainants are disregarded for the intent and spirit (3 Mo. P. S. C. 551, P. U. R. 1916 E, 56), but cross-complaints seeking affirmative relief are unauthorized (4 Mo. P. S. C. 13). Complaints seeking the erection and maintenance of railroad passenger depots may be filed by any person, civic association or organization (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), but the railroads using such proposed passenger stations are necessary parties to the proceedings (Ibid.) Rebuilding of a viaduct under contract provisions calling for maintenance by a city does not estop the city from complaining before the Commission of the railroad's failure to rebuild at a later date (2 Mo. P. S. C. 295). Legal contracts made by public service corporations for the benefit to those to whom they owe a duty may be enforced by the third party (2 Mo. P. S. C. 531). Complaint relative to service held sufficient (1 Mo. P. S. C. 416).

**Sec. 108. Any utility has right to make complaint.**—Any corporation, person or public utility shall have the right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard *ex parte* by the commission or may be served upon any parties designated by the commission. (Laws 1913, p. 639.)

Consult Section 107.

**Sec. 109. Hearings, how conducted.**—At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, the complainant and the corporation, person or public utility complained of, and such corporations and persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. Whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the com-

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mission, together with its decision, order or requirement in the premises. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this section and the magistrate or other officer taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this state. If an order cannot, in the judgment of the commission, be complied with within thirty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, shall constitute the record of the commission: *Provided*, that on review of an order or decision of the commission, the petitioner and the commission may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the circuit court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review. (Laws 1913, p. 639.)

For matters relating to:
Rules of practice and procedure, see Sec. 24.
Investigation of common carrier accidents, see Sec. 45.
Hearings involving common carriers, railroads or street railroads, see Sec. 46.
Hearings involving electric, gas or water utilities, see Sec. 82.
Hearings involving telephone or telegraph utilities, see Sec. 92.
Rehearings, see Sec. 110.

The rules and principles of equity rather than of law are followed in proceedings (1 Mo. P. S. C. 640), and complaints are heard upon their merits, technical objections not going to the merits being discharged (1 Mo. P. S. C. 130). Except where the prayer of a complaint amounts to a bill of particulars, the Commission will not construe it as limiting and governing the cause of action (2 Mo. P. S. C. 656, P. U. R. 1916 B, 645) and the determination of reasonable and just rates has been undertaken in proceedings questioning existing rates when raised in the answer (3 Mo. P. S. C. 403), and a complaint seeking the enforcement of franchise provisions has been viewed as amended in accordance with evidence presented to promote public convenience and necessity (2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), and, absent objections, two separate cases in one complaint have been heard upon their merits (2 Mo. P. S. C. 295). The Commission will not pass upon matter not presented by the record (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144) and matters not within the allegations, although testified to (1 Mo. P. S. C. 632), as testimony relative to establishment of interlockers in pairs in proceedings relating to an interlocker at a given point (4 Mo. P. S. C. 116), are not properly before the

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Commission. Supplemental motions after original determination setting up new matter (4 Mo. P. S. C. 525) and outside matter presented for the first time upon argument of a complaint (2 Mo. P. S. C. 295) is not properly put in issue. The rights of parties before the Commission depend upon their dealings at the time of complaint, and not subsequent conditions (268 Mo. 109, 186 S. W. 703). Technical rules of evidence disregarded (1 Mo. P. S. C. 416; 2 Mo. P. S. C. 15). All evidence introduced is to be given weight in reaching conclusions, the Commission not being bound by recommendations of its experts (3 Mo. P. S. C. 75, P. U. R. 1916 A, 594; 2 Mo. P. S. C. 189, P. U. R. 1915 B, 921; 2 Mo. P. S. C. 357, P. U. R 1915 D, 482; 1 Mo. P. S. C. 468). Presumption indulged in that party making contract for benefit of another may abrogate the same (2 Mo. P. S. C. 531). Judicial notice has been taken of intra- and interstate character of railroads (2 Mo. P. S. C. 15; 2 Mo. P. S. C. 560, P. U. R. 1915 F, 489), of facts of common knowledge (2 Mo. P. U. R. 560, P. U. R. 1915 F 489), of rate schedules on file (2 Mo. P. S. C. 531), and matters upon Commission's records (2 Mo. P. S. C. 510). A necessary party to the proper determination of the issues has the right to be heard (2 Mo. P. S. C. 92), as orders of the Commission cannot be enforced without notice and hearing, or opportunity therefor, afforded affected parties (4 Mo. P. S. C. 381, P. U. R. 1917 B, 542; 2 Mo. P. S. C. 690, P. U. R. 1916 B, 1004), although if the public is not a party, the public interest in proceedings before the Commission cannot go by default (3 Mo. P. S. C. 466, P. U. R. 1916 E, 182). The determination of the interest of a complainant (4 Mo. P. S. C. 650, P. U. R. 1917 C, 144), the absence (1 Mo. P. S. C. 679) or entire failure of proof (1 Mo. P. S. C. 632), as failure of complainants to put in an appearance and the introduction of evidence by defendant negativing the complainants' allegations (3 Mo. P. S. C. 497), or failure of record to warrant granting of relief by party upon whom duty rests (1 Mo. P. S. C. 640), or failure of testimony to connect defendants with the complaint (2 Mo. P. S. C. 518), or a showing that grounds of complaint were occasioned by one not a party (2 Mo. P. S. C. 81) has caused the dismissal of complaints.

**Sec. 110. Rehearing before commission.**—After an order or decision has been made by the commission any corporation or person or public utility interested therein shall have the right to apply for a rehearing in respect to any matter determined therein, and the commission shall grant and hold such rehearing, if in its judgment sufficient reason therefor be made to appear; if a rehearing shall be granted the same shall be determined by the commission within thirty days after the same shall be finally submitted. No cause or action arising out of any order or decision of the commission shall accrue in any court to any corporation or person or public utility unless such corporation or person or public utility shall have made, before the effective date of such order or decision, application to the commission for a rehearing. Such application shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust or unreasonable. No corporation or person or public utility shall in any court urge or rely on any ground not so set forth in said application. An application for such a rehearing shall not excuse any corporation or person or public utility from complying with or obeying any order or decision or any requirement of an order or decision of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct. If, after such rehearing and a consideration of the facts, including those arising since the making of the order or decision, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order made after any such rehearing, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order



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or decision but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision. (Laws 1913, p. 640.)

For matters relating to:
Rules of practice and procedure, see Sec. 24.
Hearings involving common carrier accidents, see Sec. 45.
Hearings involving common carriers, railroads or street railroads, see Sec. 46.
Hearings involving electric, gas or water utilities, see Sec. 82.
Hearings involving telephone or telegraph utilities, see Sec. 92.
Hearings in general, see Sec. 109.

One, not a party to the original proceedings, interested in the subject matter passed upon may apply for a rehearing (1 Mo. P. S. C. 130). Review of Commission's orders hereby provided for (270 Mo. 547, 194 S. W. 287). Failure to state objections hereunder constitutes waiver (269 Mo. 634, 192 S. W. 86, P. U. R. 1917 C. 971).

**Sec. 111. Court proceeding for review.**—Within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may apply to the circuit court of the county where the hearing was held or in which the commission has its principal office for a writ of certiorari or review (hereinafter referred to as a writ of review) for the purpose of having the reasonableness or lawfulness of the original order or decision or the order or decision on rehearing inquired into or determined. The applicant, at the time of applying for such writ of certiorari or review, shall deposit with the clerk of the circuit court to which such application is made the sum of twenty-five dollars, which shall be paid by said clerk to the judge of said circuit court, after a hearing had or upon the final disposition of such cause in said court. Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard by the circuit court, unless for a good cause shown the same be continued. No new or additional evidence may be introduced upon the hearing in the circuit court but the cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceedings. Upon such hearing the circuit court shall enter judgment either affirming or setting aside the order of the commission under review. In case said order is reversed by reason of the commission failing to receive testimony properly proffered, the court shall remand the cause to the commission, with instructions to receive the testimony so proffered and rejected, and enter a new order based upon the evidence theretofore taken, and such as it is directed to receive. The court may, in its discretion, remand any cause which is reversed by it to the commission for further action. No court of this state, except the circuit courts to the extent herein specified and the supreme court on appeal, shall have jurisdiction to review, reverse, correct or annul any order or decision of the commission or to suspend or delay the executing or operation thereof,

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or to enjoin, restrain or interfere with the commission in the performance of its official duties. The circuit courts of the state shall always be deemed open for the trial of suits brought to review the orders and decisions of the commission, as provided in this act, and the same shall be tried and determined as suits in equity. (Laws 1913, p. 641, as amended by Laws 1917, p. 434.)

For matters relating to:
Appeals to Supreme Court, see Sec. 114.

Review of Commission's orders including test orders (269 Mo. 525, 191 S. W. 412), hereby provided for (270 Mo. 547, 194 S. W. 287). Failure to bring receiver before Commission raised too late for first time on motion for rehearing in circuit court (269 Mo. 634, 192 S. W. 86, P. U. R. 1917 C, 971).

**Sec. 112. Writ of review; bond to be given; excess charges of rates to be paid into court; additional bond may be required.** The pendency of a writ of review shall not of itself stay or suspend the operation of the order or decision of the commission, but during the pendency of such writ, the circuit court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order or decision. No order so staying or suspending an order or decision of the commission shall be made by any circuit court otherwise than on three days' notice and after hearing, and if the order or decision of the commission is suspended the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage. In case the order or decision of the commission is stayed or suspended, the order or judgment of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the circuit court, payable to the state of Missouri, and sufficient in amount and security to secure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity or service in excess of the charges fixed by the order or decision of the commission, in case such order or decision is sustained. The circuit court, in case it stays or suspends the order or decision of the commission in any manner affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the corporation, person or public utility affected to pay into court, from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of the commission had not been stayed or suspended. In case any circuit court stays or suspends any order or decision of the commission lowering any rate, fare, toll, rental, charge or classification, upon the execution and

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approval of said suspending bond, shall forthwith require the corporation, person or public utility affected, under penalty of the immediate enforcement of the order or decision of the commission (pending the review and notwithstanding the suspending order), to keep such accounts, verified by oath, as may, in the judgment of the court, suffice to show the amounts being charged or received by such corporation, person or public utility, pending the review, in excess of the charges allowed by the order or decision of the commission, together with the names and addresses of the corporations and persons to whom overcharges will be refundable in case the charges made by the corporation, person or public utility, pending the review, be not sustained by the circuit court: *Provided*, that street railroad corporations shall not be required to keep a record of the names and addresses of such persons paying such overcharge of fares, but such street railroad corporations shall give to such persons printed receipts showing such overcharges of fares, the form of such printed receipts to be approved by the commission. The court may, from time to time, require said party petitioning for a review to give additional security on, or to increase, the said suspending bond, whenever in the opinion of the court the same may be necessary to secure the prompt payment of said damages or said overcharges. Upon the decision of the circuit court, all moneys which the corporation, person or public utility may have collected pending the appeal, in excess of those authorized by such decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the court, unless an appeal be granted such corporation, person or public utility, as hereinafter provided. If any such moneys shall not have been claimed by the corporations or persons entitled thereto within one year from the decision of the circuit court, or the supreme court, upon appeal, the circuit court shall cause notice to such corporations or persons to be given by publication, once a week for two successive weeks, in a newspaper of general circulation, printed and published in the city or county where the circuit court tried the cause, said notice to state the names of the corporations or persons entitled to such moneys and the amount due each corporation or person. All moneys not claimed within three months after the publication of said notice shall be paid by the corporation, person or public utility, under the direction of the circuit court, into the state treasury for the benefit of the general revenue fund. (Laws 1913, p. 642.)

**Sec. 113. Preferences in all court proceedings.**—All actions or proceedings under this or any other act, and all actions and proceedings commenced or prosecuted by order of the commission, and all actions and proceedings to which the commission or the state may be parties, and in which any question arises under this or any other act, or under or concerning any order or decision or

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action of the commission, shall be preferred over all other civil causes except election contests in all the circuit courts of the state of Missouri, and shall be heard and determined in preference to all other civil business pending therein except election contests, irrespective of position on the calendar. The same preference shall be granted upon application of the general counsel for the commission in any action or proceeding in which he may be allowed to intervene. (Laws 1913, p. 644.)

**Sec. 114. Appeals to supreme court; transcript and exhibits; clerk to docket appeal at first term.**—The commission, any corporation, public utility or person or any complainant may after the entry of judgment in the circuit court in any action in review, prosecute an appeal to the supreme court of this state. Such appeal shall be prosecuted as appeals from judgment of the circuit court in civil cases except as otherwise provided in this act. The original transcript of the record and testimony and exhibits, certified to by the commission and filed in the circuit court in any action to review an order or decision of the commission, together with a transcript of the proceedings in the circuit court, shall constitute the record on appeal to the supreme court. Where an appeal is taken to the supreme court the cause shall, on the return of the papers to the supreme court, be immediately placed on the docket of the then pending term by the clerk of said court and shall be assigned and brought to a hearing in the same manner as other causes on the then pending term docket, but shall have precedence over all civil causes of a different nature pending in said court. No appeal shall be effective when taken by a corporation, person or public utility unless a cost bond of appeal in the sum of five hundred dollars shall be filed within ten days after the entry of judgment in the circuit court appealed from. The circuit court may in its discretion suspend its judgment pending the hearing in the supreme court on appeal, upon the filing of a bond by such corporation, person or public utility with good and sufficient security conditioned as provided for bonds upon actions for review and by further complying with all terms and conditions of this act for the suspension of any order or decision of the commission pending the hearing of review in the circuit court. This bond shall be in addition to the cost bond heretofore provided in this section. The general laws relating to appeals to the supreme court shall, so far as applicable and not in conflict with the provision of this act, apply to appeals taken under the provisions of this act. (Laws 1913, p. 644.)

For matters relating to:
Court proceedings for review, see Sec. 111.

The Commission may make findings of fact and orders (—— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005) but is not a court (268 Mo. 109, 186 S. W. 703; 259 Mo. 704, 168 S. W. 1156; —— Mo. ——, 192 S. W. 460, P. U. R. 1917 C, 1005), and for this reason the Supreme Court cannot weigh errors of the Commission (266 Mo. 484, 181 S. W. 396), or direct dismissal of proceedings before the Commission (266 Mo. 333, 181 S. W. 61, P. U. R. 1916 B, 367). The findings of the Commission are not prima facie evidence of their correctness and the Supreme Court may make its own findings of fact (—— Mo. ——, 196 S. W. 369; 268 Mo. 109; 186 S. W. 703; 266 Mo. 333, 181 S. W. 61, P. U. R. 1916 B, 367). The

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findings of the Commission are reviewed as findings of a court of chancery (266 Mo. 333, 181 S. W. 61, P. U. R. 1916 B, 367), all evidence introduced before the Commission being subject to review on appeal (266 Mo. 333, 181 S. W. 61, P. U. R. 1916 B, 367), with the judgment of the courts resting solely on the preponderance of competent evidence adduced before the Commission, unaffected by conclusions of fact or law arrived at by the Commission (268 Mo. 109, 186 S. W. 703). Where the ultimate findings of the Commission upon the question of rates is favorable to the utility, it may not complain that some subordinate facts were found against it (—— Mo. ——, 195 S. W. 741). Failure to move for new trial or include a bill of exceptions in the record brings up for review only the record proper (266 Mo. 484, 181 S. W. 396).

**Sec. 115. Orders of commission in collateral proceedings conclusive.**—In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive. (Laws 1913, p. 645.)

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## ARTICLE VII.

### ADDITIONAL POWERS OF THE COMMISSION: SAVING CLAUSE, AND STATUTES IN CONFLICT REPEALED.

Section 116. Powers of commission to require equipment or performance of acts which the health or safety of its employees or the public may demand.
117. Orders and certificates to be recorded; to impart notice when recorded in office of recorder; all public utilities to have office in this state and to keep all records, books, et cetera, at office.
118. Commission may act as arbitrators.
119. Powers of commission may be exercised by others when authorized by commission.
120. Information furnished commission not to be divulged except in certain cases; penalty.
121. Commission may require production of books, et cetera, kept outside of this state or verified copies.
122. Commission may confer with other commissions and attend conventions.
123. All orders of commission *prima facie* lawful and reasonable.
124. In proceeding before commission burden of proof to be on adverse party.
125. Immunity of witnesses; refusing to testify or produce evidence guilty of misdemeanor.
126. Commission to fix units of service.
127. Substantial compliance with requirements of this act sufficient.
128. Person making false entry, destroying, mutilating or altering record or making false statements guilty of a felony; penalties; records and papers to be preserved; orders to be in harmony with those of interstate commerce commission.
129. Penalties cumulative.
130. Penalty for violation of orders of commission, et cetera; act of employee declared act of public utility.
131. Employee of public utility guilty of misdemeanor, when.
132. Powers and duties of board of railroad and warehouse commissioners to be exercised and performed by commission.
133. Transfer of records.
134. Pending actions and proceedings.
135. Orders and decisions to continue in force.

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Section 136. Construction.
137. Constitutionality of act.
138. Act not to apply to interstate commerce.
139. Repealing clause.
140. Emergency.

**Sec. 116. Powers of commission to require equipment or performance of acts which the health or safety of its employees or the public may demand.**—The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every person, corporation and public utility, to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block and other systems of signaling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand. (Laws 1913, p. 645.)

For matters relating to:
Common carriers in general, see Secs. 42-7, 49.
Intersections of highways, railroads and street railroads, including interlocking plants, etc., see Sec. 50.
Block and other signals, see Sec. 50.
Electric, gas and water service in general, see Secs. 69-2, 69-3.
Telephone and telegraph utilities, see Secs. 93-2, 95.

Commission has jurisdiction hereunder over erection of high voltage transmission lines imperiling life and interfering with telephone service (4 Mo. P. S. C. 490, P. U. R. 1917 A, 351).

**Sec. 117. Orders and certificates to be recorded; to impart notice when recorded in office of recorder; all public utilities to have office in this state and to keep all records, books, et cetera, at office.**—Every order, authorization or certificate issued or approved by the commission under any provision of this act shall be in writing and entered on the records of the commission. Any such order, authorization or certificate, or any part thereof, or a copy of the record of any such order, authorization or certificate, certified by a commissioner or by the secretary under the seal of the commission to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county or city, in which is located the principal office and place of business of any corporation, person or public utility affected thereby, or in which is situated any property of any such corporation, person or public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with the same effect. Every public utility shall have an office in

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this state, in which all accounts, records, memoranda, books and papers carried in pursuance of the requirements of law shall be kept. No such accounts, records, memoranda, books or papers shall at any time be removed from the state except upon such conditions as may be prescribed by the commission. (Laws 1913, p. 646.)

**Sec. 118. Commission may act as arbitrators.**—Whenever any public utility has a controversy with another public utility or person and all the parties to such controversy agree in writing to submit such controversy to the commission as arbitrators, the commission shall act as such arbitrators, and after due notice to all parties interested shall proceed to hear such controversy, and their award shall be final. Parties may appear in person or by attorney before such arbitrators. (Laws 1913, p. 646.)

Commission has acted as arbitrators of the sale price of a water system (2 Mo. P. S. C. 31), and of disputed meter bills (2 Mo. P. S. C. 38; 2 Mo. P. S. C. 204). Adjustments of controversies arising from disputed meter bills have been made on the basis of average daily readings for corresponding period of other years (2 Mo. P. S. C. 38), but where no undue variation is shown with bills rendered for service covering a five year period the disputed account was considered correct (2 Mo. P. S. C. 204).

**Sec. 119. Powers of commission may be exercised by others when authorized by commission.**—The commission may authorize any person employed by it to do or perform any act, matter or thing which the commission is authorized by this act to do or perform: *Provided*, that no order, rule or regulation of any person employed by the commission shall be binding on any public utility or any person unless expressly authorized or approved by the commission. (Laws 1913, p. 646.)

For matters relating to:
Authority of Commissioner, see Sec. 12.
Quorum of Commission, see Sec. 12.

**Sec. 120. Information furnished commission not to be divulged except in certain cases; penalty.**—No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this act, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who, in violation of the provisions of this section, divulges any such information shall be guilty of a misdemeanor. (Laws 1913, p. 647.)

For matters relating to:
Common carriers, see Sec. 52.
Electric, gas and water utilities, see Sec. 69-3.
Telephone and telegraph utilities, see Sec. 91-2.

**Sec. 121. Commission may require production of books, et cetera, kept outside of this state or verified copies.**—The commission may require, by order served upon any corporation, person or public utility in the manner provided herein for the service of orders, the production within this state at such time and place as it may designate, of any books, accounts, papers or records

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kept by said corporation, person or public utility in any office or place without this state, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction. (Laws 1913, p. 647.)

For matters relating to:
Attendance of witnesses, see Sec. 21.
Penalty for refusal to produce books, etc., see Sec. 23.
Common carrier proceedings, see Sec. 43-2.
Electric, gas and water utility proceedings, see Sec. 69-10.
Telephone and telegraph utility proceedings, see Sec. 90-2.
Immunity of witnesses, see Sec. 125.

**Sec. 122. Commission may confer with other commissions and attend conventions.**—The commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of railroad or other public utility commissions of other states and with the interstate commerce commission, on any matters relating to public utilities. (Laws 1913, p. 647.)

**Sec. 123. All orders of commission prima facie lawful and reasonable.**—All rates, tolls, charges, schedules and joint rates fixed by the commission shall be in force and shall be *prima facie* lawful, and all regulations, practices and services prescribed by the commission shall be in force and shall be *prima facie* lawful and reasonable until found otherwise in a suit brought for that purpose pursuant to the provisions of this act. (Laws 1913, p. 647.)

**Sec. 124. In proceeding before court burden of proof to be on adverse party.**—In all trials, actions, suits and proceedings arising under the provisions of this act or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to such commission or seeking to set aside any determination, requirement, direction or order of said commission, to show by clear and satisfactory evidence that the determination, requirement, direction or order of the commission complained of is unreasonable or unlawful as the case may be. (Laws 1913, p.647.)

For matters relating to:
Burden of proof in rate proceedings before the Commission, see Secs. 48, 70, 94.

**Sec. 125. Immunity of witnesses; refusing to testify or produce evidence guilty of misdemeanor.**—No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before the commission or any commissioner, when ordered to do so by the commission, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence: *Provided however*, that no person so testifying shall be exempt from prosecution or punishment for

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any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving unto any corporation immunity of any kind. (Laws 1913, p. 647.)

For matters relating to:
Attendance of witnesses, see Sec. 21.
Penalty for refusal to produce books, etc., see Sec. 23.
Common carrier proceedings, see Sec. 43-2.
Electric, gas and water utility proceedings, see Sec. 69-10.
Telephone and telegraph utility proceedings, see Sec. 90-2.
Production of books, etc., kept outside the state, see Sec. 121.

**Sec. 126. Commission to fix units of service.**—The commission shall ascertain, determine and fix for each kind of public utility suitable and convenient standard commercial units of service, product or commodity, which units shall be lawful units for the purposes of this act. (Laws 1913, p. 648.)

For matters relating to:
Common carriers, see Sec. 47-1.
Electric, gas and water utilities, see Secs. 69-3, 69-5, 82.
Telegraph and telephone utilities, see Secs. 93-1, 93-3.

**Sec. 127. Substantial compliance with requirements of this act sufficient.**—A substantial compliance with the requirements of this act shall be sufficient to give effect to all the rules, orders, acts and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. The provisions of this act shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities. (Laws 1913, p. 648.)

For matters relating to:
Rules, etc., governing hearings, see Sec. 24.
Complaints, how made in general, see Secs. 107, 108.
Hearings, how conducted in general, see Sec. 109.
Rehearings, see Sec. 110.

This law is to be liberally construed (259 Mo. 704, 168 S. W. 1156; 254 Mo. 515, 163 S. W. 854). Substantial compliance with requirements of act sufficient (1 Mo. P. S. C. 416).

**Sec. 128. Person making false entry, destroying, mutilating or altering record or making false statements guilty of a felony; penalties; records and papers to be preserved; orders to be in harmony with those of interstate commerce commission.**—Any person who shall willfully make any false entry in the accounts, books of account, records or memoranda kept by any corporation, person or public utility governed by the provisions of this act, or who shall willfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, record or memoranda, or who shall willfully neglect or fail to make full, true and correct entries of such account, book of accounts, record or memoranda of all facts and transactions appertaining to the business of such corporations, persons or public utilities, or who shall falsely make any statement required to be made to the public service commission, in which a penalty has not heretofore been provided for, shall be deemed guilty of a felony, and

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upon conviction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment: *Provided* that the commission may, in its discretion, issue orders specifying such operating, accounting or financial papers, records, books, blanks, tickets, stubs or documents, of carriers which may after a reasonable time be destroyed, and prescribing the length of time such books, papers or documents shall be preserved; *and provided further*, that such orders shall be in harmony with those of the interstate commerce commission. (Laws 1913, p. 648.)

**Sec. 129. Penalties cumulative.**—All penalties accruing under this act shall be cumulative of each other, and the suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any original prosecution against any corporation, person or public utility, or any officer, director, agent or employee thereof. (Laws 1913, p. 649.)

**Sec. 130. Penalty for violation of orders of commission, et cetera; act of employee declared act of public utility.**—1. Any corporation, person or public utility which violates or fails to comply with any provision of the Constitution of this state or of this or any other act, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not hereinbefore been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense. (Laws 1913, p. 649.)

2. Every violation of the provisions of this or any other act or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, by any corporation or person or public utility is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense. (Laws 1913, p. 649.)

3. In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any corporation, person or public utility, acting within the scope of his official duties of employment, shall in every case be and be deemed to be the act, omission or failure of such corporation, person or public utility. (Laws 1913, p. 649.)

Construed (1 Mo. P. S. C. 130).

**Sec. 131. Employee of public utility guilty of misdemeanor, when.**—Every officer, agent or employee of any corporation or public utility, who violates or fails to comply with, or who procures, aids or abets any violation by any corporation, person or public utility of any provision of the Constitution of this state or of this or any other act, or who fails to obey, observe or comply

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with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission, or who procures, aids or abets any corporation, person or public utility in their or its failure to obey, observe and comply with any such order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, in a case in which a penalty has not hereinbefore been provided for such officer, agent or employee, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. (Laws 1913, p. 649.)

**Sec. 132. Powers and duties of board of railroad and warehouse commissioners to be exercised and performed by commission.**—On and after the date of the taking effect of this act all the powers and duties of the board of railroad commissioners or the board of railroad and warehouse commissioners imposed by any statute of this state, in relation to the corporations, persons and public utilities coming within the provisions of this act, shall thereupon be imposed, conferred, and be exercised and performed by the public service commission hereby created. (Laws 1913, p. 650.)

**Sec. 133. Transfer of records.**—The board of railroad and warehouse commissioners shall transfer and deliver to the public service commission all books, maps, papers and records of whatever description in any manner relating to the corporations, persons and public utilities coming within the provisions of this act, in their possession on the date of the taking effect of this act; and the said commission is authorized to take possession of all such books, maps, papers and records. (Laws 1913, p. 650.)

**Sec. 134. Pending actions and proceedings.**—This act shall not affect pending actions or proceedings, civil or criminal, brought by or against the board of railroad and warehouse commissioners in any manner pertaining to the corporations, persons and public utilities coming within the provisions of this act. Nor shall the provisions of sections 29, 30 and 35 of this act, in so far as they require any act to be performed not now required by law to be performed, and so far as they may prohibit the doing of any act which now may be lawfully done, become effective until July 31, 1913. (Laws 1913, p. 650.)

**Sec. 135. Orders and decisions to continue in force.**—All orders, decisions, rules or regulations heretofore made, issued or promulgated by the board of railroad commissioners or the board of railroad and warehouse commissioners, relating in any manner to the corporations, persons and public utilities coming within the provisions of this act, shall continue in force and have the same effect as though they had been lawfully made, issued or promulgated under the provisions of this act. (Laws 1913, p. 650.)

**Sec. 136. Construction.**—Whenever the terms board of railroad commissioners or board of railroad and warehouse commis-

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sioners occur in any law, contract or document or whenever in any law, contract or document reference is made to said boards, such terms or reference shall be deemed to refer to and include the public service commission, as established by this act, so far as such law, contract or document pertains to matters which are within the jurisdiction of the said public service commission. (Laws 1913, p. 650.)

**Sec. 137. Constitutionality of act.**—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. (Laws 1913, p. 651.)

For matters relating to:
Constitutionality in general, see Sec. 16-9.
Consult also specific sections.

**Sec. 138. Act not to apply to interstate commerce.**—Neither this act nor any provision thereof, except when specifically so stated, shall apply to or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of congress. (Laws 1913, p. 651.)

For matters relating to:
Duty of Commission as to interstate traffic, see Sec. 66.
Commission's jurisdiction over interstate carriers, see Sec. 16.
Commission's interference with interstate traffic, see Sec. 16-8.
Ticker service of stock quotations, see Sec. 93-2.

**Sec. 139. Repealing clause.**—That sections 9568, 9569 and 9570, article 8, chapter 84, Revised Statutes, 1909, and all other acts and parts of acts in conflict with this act are hereby repealed. The provisions of this act are not intended to repeal any law now in force, unless in direct conflict therewith, but is intended to be supplemental to such laws. (Laws 1913, p. 651.)

For matters relating to:
Commission's finding as to validity of statutes, see Sec. 16-9, and specific sections.

Cumulative and supplemental to Secs. 3173, 3184 and 3185, R. S. 1909 (4 Mo. P. S. C. 620, P. U. R. 1917 D, 109). A former law is repealed by a latter repugnant act (1 Mo. P. S. C. 600). Municipal ordinance prescribing maximum electric rates, etc., enacted under authority of Secs. 9568, 9569 and 9570, R. S. 1909, nullified by enactment of the Public Service Commission law (253 Mo. 592, 161 S. W. 1166), and freeholders' charter provisions and ordinances, under Constitution, Art. 9, Sec. 16, conflicting in matters of state concern with the provisions of the Public Service Commission law are invalid (270 Mo. 429, 192 S. W. 958, P. U. R. 1917 D, 752). The obligation of a railroad to bear the expense of and construct a viaduct under a valid existing ordinance was not modified through the enactment of the Public Service Commission law (262 Mo. 720, 174 S. W. 73. But see 1 Mo. P. S. C. 644 and 2 Mo. P. S. C. 295 with reference to obligation incurred by municipality).

**Sec. 140. Emergency.**—There being no adequate provisions of law for the regulation and control of the corporations, persons and public utilities coming within the provisions of this act, and

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this act being deemed of immediate importance, an emergency exists within the meaning of the Constitution; therefore this act shall take effect and be in force from and after the fifteenth day of April, 1913. (Laws 1913, p. 651.)

Approved March 17, 1913.

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